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ABSTRACT

The guide outlines concepts central to the process of governance at local, state, and national levels. It is intended for use by junior high school social studies teachers as they develop and implement educational programs to help students understand governmental structure and functions and to develop skills in evaluating government strategies and activities. The document is presented in seven chapters. Chapter I explains how to use the guide, defines vocabulary, and identifies major objectives. Remaining chapters explore political institutions, governmental power and limitations, citizen rights and responsibilities, values and beliefs, citizen participation in government, and decision making. Students are involved in activities such as role playing, group discussion, constructing charts and graphs, memorizing sections of government documents, doing research projects on governmental institutions, creating bulletin boards, analyzing political cartoons, and taking multiple-choice and attitude tests. After participating in these activities, students should be able to identify main functions of government, understand the governmental power structure, illustrate individual rights and responsibilities in a democracy, define values of mainstream American society, recognize the need for an informed and involved citizenry, and explain decision-making responsibilities of governmental representatives. (DB)

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1784

# TOWARD CIVIC RESPONSIBILITY

(August 1978)

**THE UNIVERSITY OF THE STATE OF NEW YORK**
**THE STATE EDUCATION DEPARTMENT**
**BUREAU OF GENERAL EDUCATION CURRICULUM DEVELOPMENT**
**ALBANY, NEW YORK 12234**

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# FOREWORD

"Promote, then, as an object of primary importance, institutions for the general diffusion of knowledge. In proportion as the structure of a government gives force to public opinion, it is essential that public opinion should be enlightened."

*Toward Civic Responsibility* is a publication that comes out of the tradition expressed by George Washington in his Farewell Address in 1796. The citizenry continues to be concerned, that young people must understand the basic tenets of the democratic system and how that system functions in this country.

An equally important understanding, however, is the importance of participation in the democratic process. Aristotle saw the value of participation in decisionmaking as a vehicle through which citizens in a democracy would learn the democratic way of life.

Participation is the central theme of this teacher's guide. Suggested teaching activities emphasize involvement of students in school and community incidents and settings, to develop the concepts of governance included in the Social Studies 7 and 8 programs. The participation aspects of individuals in governmental actions and institutions are highlighted, in answer to the concern that "consent of the governed" alone is too passive in today's world.

The preliminary draft of the manuscript was prepared by Concetta Morgan, teacher, East Islip Union Free School, and Donald Stewart, Social Studies Chairperson, Penfield High School. A team of Regina White, Social Studies Chairperson, Lincoln Orens Junior High, Island Park, Bernard Flaherty, Social Studies Chairperson, Clinton High School, who is also a member of the Oneida County Legislature, and Robert Neiderberger, formerly a teacher at the Milne School, Albany, and Associate Professor, State University at Albany, revised the manuscript, applying a recently developed K-12 rationale concerning civic understanding.

Graphic illustrations were prepared by Mary Kathleen O'Donnell of Cohoes. The Honorable Morton Lynn, Justice, City Court of Albany, reviewed part of the manuscript and offered helpful suggestions.

Initial planning for the publication, substantive reviews of the drafts, and valuable advice throughout the entire project, have been provided by Donald H. Bragaw, Chief, and Coe F. Dexter, John F. Dority, Jacob I. Hotchkiss, and Kenneth E. Wade, staff members of the Bureau of Social Studies Education. Janet M. Gilbert, Associate, Bureau of General Education Curriculum Development, was in general charge of the project and prepared the manuscript for printing.

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# HOW TO USE THIS GUIDE

*Toward Civic Responsibility* does not present a new course of study for students in middle schools and junior high schools in New York State. The study of government at local, state, and national levels has been an integral part of social studies programs in past course organizations. Legislative statements about its place in the curriculum indicate that the Legislature, reflecting the wishes of the citizenry, consider this study to be important for the young people of this State.

Increasing student cynicism concerning things politic offers evidence that the schools have not been successful in transmitting to young people a sense of citizen ownership of the governmental process, a concept which is the essence of democracy.

Students reflect adult attitudes played out for them in the home and by the media. There is a growing remoteness on the part of the individual, an abdication of responsibility in determining what services government shall provide and for whom, in deciding who shall carry out such functions, and in providing vigilance with respect to human rights as well as the efficiency of governmental functions. The popular stereotype sees government as "political," which is "bad," and too expensive. Yet many of those applying the stereotype will continue to support staunchly the occasional government official convicted of graft if he/she "has done a lot for the district."

The direction suggested in this publication is one of identifying concepts central to the process of governance at every level, and the skills needed for the citizen to make decisions about government strategies and activities are then provided to develop understanding, first in the immediate school or community setting, and then within the various political institutions. The responsibility of the individual in each instance is highlighted. Decisionmaking is portrayed in terms of consideration of alternatives and the consequences of each, wherein resolution of the situation will require some compromise.

To emphasize the point that this publication presents no new content, but simply a more personalized, student's-eye-view of the citizen's responsibility, relevant understandings from *Social Studies Syllabus, grades 7 and 8* are printed at the beginning of the activity section for each knowledge objective. To remind teachers that their students do not come out of a vacuum, but have had earlier educational experiences, the related understandings in *Social Studies K-3* and *Social Studies 4-6* are also included.

In addition to identifying the knowledge objectives around which each topic is organized, some skill objectives necessary for civic competence are also highlighted. Students dealing with Powers and Restraints: Source, Nature, Change, will look first at the source of rules in the classroom setting and in simulated situations, and the effect of these rules upon the participants. Analysis through role-playing of several historical settings in which the people affected by the events determined the need for rules (laws) and designed the institutions through which future rules would be proposed and implemented, helps students to perceive the relationship between an existing social problem and to generate sound proposals for solutions. Citizens need ability to read visual as well as verbal cues as they develop understanding of current problems by viewing and listening to the media, and to deal with dilemmas, both personal and within the body politic, by listening to and reacting to the viewpoints of others.

None of the activities are so closely prescribed as to prohibit local adaptation, nor is any teacher expected to include all of them within her/his teaching program for the year. Some will lend themselves to elementary school adaptations; others will be appropriate for senior high students.

However the uses of the publication may vary, the goal of this project is what the title implies: to move toward greater civic responsibility. If young people have opportunity to see government in action more realistically, and in home-school-community as well as in state and national settings, they can write themselves into the picture.

# OPERATIONAL DEFINITIONS OF CONCEPTS USED IN THIS GUIDE

## A. POLITICAL INSTITUTIONS: FORMS AND FUNCTIONS

Government is an organization formed by the people to perform services, to guide and coordinate activities (or policies), to provide processes for resolving disputes fairly and rationally, to protect rights and to maintain order for the general wellbeing of all its citizens in an ever-changing society.

## B. POWERS AND RESTRAINTS: SOURCE, NATURE, CHANGE

Power is the ability to compel action or maintain and effect an outcome. It is legitimized by the consent of the people. In a democracy, power can be defined as authority only when it is perceived as just and proper.

Restraints are established by the people through the Constitution, customs and value systems to insure that the actions of governments are responsible and responsive.

## C. RIGHTS AND RESPONSIBILITIES

Rights are the guarantees from external restraints on individual behavior. Freedom of behavior or of action is based on the power to exercise and have access to the protections embodied in our Constitutions. They are essential to insure justice and order through law in a democratic society.

Responsibility is the exercise of internal restraints upon individual and collective behavior within a society. It requires that each citizen be accountable for his own actions or failure to act and to respect the limits upon his freedom of action as determined by the right of others and the need for order in a democratic society. Without a responsible citizenry democratic institutions will not survive.

## D. VALUES AND BELIEFS

Values are subjective, cultural and personal judgments of what is good and desirable. They are learned products of and transmitted by a society's religious, social, educational, economic and political institutions. They become the basis for rationalizing personal decisions and activities. Among the most prized American values are human dignity, freedom, individuality, equality of opportunity, productivity, upward social economic mobility and due process of law.

## E. PARTICIPATION

Participation is the essence of democracy. Democracy may be defined as self-government by informed citizens who engage in decisionmaking by various modes of direct or indirect, formal or informal, influence at all levels of government. Democratic participation in social, economic, and political areas involves determining goals and means, as well as execution and accountability. One of the best ways to insure government's responsiveness is by joining with other citizens and becoming an active and vocal member of a community. The more participation, the more effective the democracy.

## F. DECISIONMAKING: SELECTION AMONG ALTERNATIVES

Decisionmaking is a process by which people either individually or collectively attempt to choose among alternatives, to resolve conflicts among competing interests seeking to determine or influence policies, and to balance and arrive at a consensus that will satisfy and insure the greatest good for the most in a democratic society. Essential to the process is access to reliable information, participation in the formulating stages and accountability of the decisionmaker to his/her constituents.

# KNOWLEDGE OBJECTIVES RELATED TO THE AMERICAN DEMOCRATIC SYSTEM

## A. POLITICAL INSTITUTIONS: FORMS AND FUNCTIONS

1. to identify the source of government in a democratic society as emanating from the people.
2. to discover the main purposes of government, that is to facilitate, promote, restrict and regulate.
3. to identify the main function of government.
4. to understand the structural organization of government at the national, state and local level.
5. to identify the function and interaction of each organizational branch or division of government.

## B. POWERS AND RESTRAINTS: SOURCE, NATURE, CHANGE

1. to discover the source (base foundation) of powers and restraints in a democratic society.
2. to identify the Constitutional grants of and limitations on governmental power.
3. to identify the unwritten grants and limitations of power and accruals.
4. to understand the formal power structure and functional influence of new conditions.
5. to understand the informal power structure and functional influence of new conditions.

## C. RIGHTS AND RESPONSIBILITIES

1. to discover the origins of rights in a democratic society.
2. to discover the origins of responsibilities in a democratic society.
3. to illustrate the rights and responsibilities of an individual in a democratic society.
4. to identify and evaluate the (formal) institutions and procedures designed to protect individual rights.
5. to identify and evaluate the formal institutions and procedures designed to hold an individual accountable for his actions.

## D. VALUES AND BELIEFS

1. to identify those values which are taught through religious, social, educational, economic, and political institutions in the mainstream of American society.
2. to recognize individual reactions of acceptance or rejection of specific mainstream values and to explain these reactions.
3. to define, interpret, and illustrate those values which the individual either demonstrates or fails to demonstrate in practice.

## E. PARTICIPATION

1. to recognize, interpret and illustrate the essential need for an informed and involved citizenry in a democratic society.
2. to identify the collective groups and/or interests that exert influence on governmental personnel and their actions.
3. to identify and illustrate the direct and indirect, formal and informal processes by which a citizen or group of citizens can effect civic improvement and influence governmental actions.
4. to identify and illustrate the ways by which the individual can use the political system to satisfy his/her legitimate needs.

## F. DECISIONMAKING: SELECTION AMONG ALTERNATIVES

1. to identify the positions of authority to whom the responsibility is delegated to carry out the will of the people.
2. to identify, explain, and illustrate the diversity of interests and needs upon which our representatives must base their decisions.
3. to identify and interpret the functional processes by which our governmental representatives make and implement their decisions.
4. to recognize and explain the importance of providing for sufficient and reliable information for both the decisionmakers and the individual citizen.

## A POLITICAL INSTITUTIONS: FORMS AND FUNCTIONS

### Operational Definition

Government is an organization formed by the people to perform services, to guide and coordinate activities (or policies), to provide processes for resolving disputes fairly and rationally, to protect rights and to maintain order for the general well being of all its citizens in an ever-changing society.

### Knowledge Objectives

1. *to identify the source of government in a democratic society as emanating from the people.*
2. *to discover the main purposes of government, that is to facilitate, promote, restrict and regulate.*
3. *to identify the main functions of government.*
4. *to understand the structural organization of government at the national, state and local level.*
5. *to identify the function and interaction of each organizational branch or division of government.*

### Skill Objectives

- *to identify issues involved and recognize possible conflicts among values.*
- *to read and analyze documents in terms of intent of the authors, e.g., the goals to be accomplished.*
- *to identify similarities and differences in data.*
- *to apply the concepts and generalizations learned from the analysis of one set of data to a new situation.*
- *to perceive relationships among social problems and to generate sound proposals for their solutions.*
- *to identify value positions and propose possible reasons for assuming these positions.*

### Activities to Develop the Knowledge Objectives

### Knowledge Objectives 1 and 2

*to identify the source of government in a democratic society as emanating from the people.*

*to discover the main purposes of government, that is to facilitate, promote, restrict and regulate.*

**Activity 1**

(Each of the steps for this activity follows in logical progression.)

Related Understandings for these activities:

Grade 7: GOVERNMENT IS AN ORGANIZATION FORMED TO PERFORM SERVICES FOR PEOPLE FOR WHICH THEY HAVE A COMMON NEED.

Understandings already introduced at lower grades:

Grade 1: OUR COUNTRY IS A DEMOCRACY.

Grade 4: OUR GOVERNMENT IS ALSO CALLED A DEMOCRACY BECAUSE IT IS A GOVERNMENT CHOSEN BY THE PEOPLE AND RESPONSIBLE TO THE PEOPLE.

- Divide the class into three groups, about equally matched in ability but with these differences:
  - Group A should include students of about equal physical strength and should not include anyone with a known physical disability, or anyone given to violence.
  - Group B should include one student who can intimidate the others (rather than persuading by popularity) to do what he/she orders.
  - Group C has no additional characteristics.
- Provide written instructions for each group, stating the procedures for making decisions and resolving conflicts, as follows:
  - Group A can use any method EXCEPT voting or appointing one person to give orders. (The teacher may wish to monitor this group closely.) They may produce as many products as they choose, but only one is to be submitted for judging.
  - Group B will follow the directions given by the student named by the teacher. They may produce one product.
  - Group C will vote, with the majority voice accepted, on every decision. They may produce one product.
- Designate one person in each group to serve as observer. He/she will keep a written record of the participation within the group, and will not take part in the action.
- Provide each group with the following items, and assign a working space to each.
  - 12 sheets of plain white paper
  - 2 sheets of construction paper (any colors)
  - 1 pair of scissors; 1 ruler; 1 stapler
  - 8 crayons (same colors to each group)
  - 1 pen; 1 roll of transparent tape
  - 1 magazine (same title but not necessarily same issue)
  - 1 copy of a local daily newspaper

- Announce that the "product" will be something that would tell the observer something positive about the school, and that an independent judge will make the decision. (Arrange in advance for the principal, a fellow teacher, or another adult to serve in this way.)
- Allow one whole class period for the activity, with no additional work permitted out of class time.
- After the judging, spend at least one class period analyzing what has happened and why.
  - Each observer may give a report with group members adding comments, or making corrections.
  - Through class discussion, the following chart can be completed.

| | Group A | Group B | Group C |
|---|---|---|---|
| How long did it take to organize the group and get it started on the task? | | | |
| *How were decisions made within the group? | | | |
| How efficient was the group in completing the task? | | | |
| How cooperatively and smoothly did the group members work together? | | | |
| How much did the group members enjoy this experience? | | | |
| Did conflict develop? How was it resolved? | | | |
| What was the source of power in each group? | | | |

*The class may need help with ideas such as compromise, consensus, majority.

- Now identify the three groups as Group A: Anarchy; Group B: Dictatorship; Group C: Democracy. Discuss the meaning of these terms.
- Have the class develop a definition of democratic government in terms of power source, method of operation, and general acceptance and satisfaction expressed by the people governed.

**Activity 2**

(Each of the steps for this activity follows in logical progression.)

- To transfer and/or apply their findings to the source of government and to identify the main purpose of government and to identify the main purpose of government in a democratic society, the class may examine the preamble to both the Federal and State Constitutions as presented below.

Related Understandings for these activities:

Grade 7: GOVERNMENT IS AN ORGANIZATION FORMED TO PERFORM SERVICES FOR PEOPLE FOR WHICH THEY HAVE A COMMON NEED.

SUCCESSIVE NEW YORK STATE CONSTITUTIONS HAVE REFLECTED THE CHANGING NEEDS AND THE DESIRES OF THE PEOPLE OF THE STATE.

*PREAMBLE TO CONSTITUTION OF UNITED STATES*
*(SEPTEMBER 1787)*

*We the people of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defense, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.*

*PREAMBLE TO NEW YORK STATE CONSTITUTION*
*(APRIL 20, 1777)*

*We, the People of the State of New York, grateful to Almighty God for our Freedom, in order to secure its blessings, do establish this Constitution.*

- Have each student identify the six goals specifically listed in the Federal preamble. Each may be placed on a separate sheet of newsprint.

  In five small groups, have students using dictionaries and other references, work out the meaning of a specific goal. The explanation can be placed on the sheet of newsprint.

- Have students read the State preamble and identify the goal. A marker can be used to indicate the goal in the Federal preamble which most closely resembles it.

  Discuss whether the State's general goal could include all of the other goals of the Federal preamble.

- Although the text of the State Constitution has changed, the preamble has remained the same, since 1777. Why have the people of the State of New York felt that this was still adequate, after 200 years?

- Classify the goals in the Federal preamble in terms of whether they provide something for the people or restrict some actions by someone or by some government.

- Have the students write a preamble stating the goals for a constitution for the school, or for a student organization.

### Knowledge Objective 3

*to identify the main functions of government.*

Related Understandings for these activities:

Grade 4: OUR GOVERNMENT HAS THREE SEPARATE BRANCHES TO PERFORM THE THREE MAJOR TASKS OF ANY GOVERNMENT.

Grade 7: GOVERNMENT IS AN ORGANIZATION FORMED TO PERFORM SERVICES FOR PEOPLE FOR WHICH THEY HAVE A COMMON NEED.

#### Activity 1

(Each of the steps for this activity follows in logical progression.)

- Select a rule passed by the school district's Board of Education, e.g., "No smoking will be permitted by students in the school or on the school grounds, unless the parent has given consent."
  - Propose a case in which the rule is broken: "Mary J. and Denise K. are found smoking in the girl's lavatory, by Ms. Carey, the English teacher."
  - "The girls are sent to the principal, Mrs. Jankowski, who consults her file of parental permit slips, then calls the parents."

- Have the students set up a chart and identify the function related to the law that is being performed by each of the following:
  - the Board of Education
  - the teacher, Ms. Carey
  - the principal, Mrs. Jankowski.

- After the functions of law making, law enforcing, and law interpreting have been identified, introduce, or recall, the terms legislative, executive, and judicial, and have them applied to the appropriate actions.

- Raise questions concerning how "the people" (in this case, the student population) feel about having the rules made and applied to them by an outside institution or agency, of which they do not feel a part. Some discussion of ways that Boards of Education are selected, and accountability of teachers and principals to the parents in the community may help to dispel some of the authoritarian image. The question of how "the people" can have a closer relationship to each of these functions of government should be dealt with.

**Activity 2**

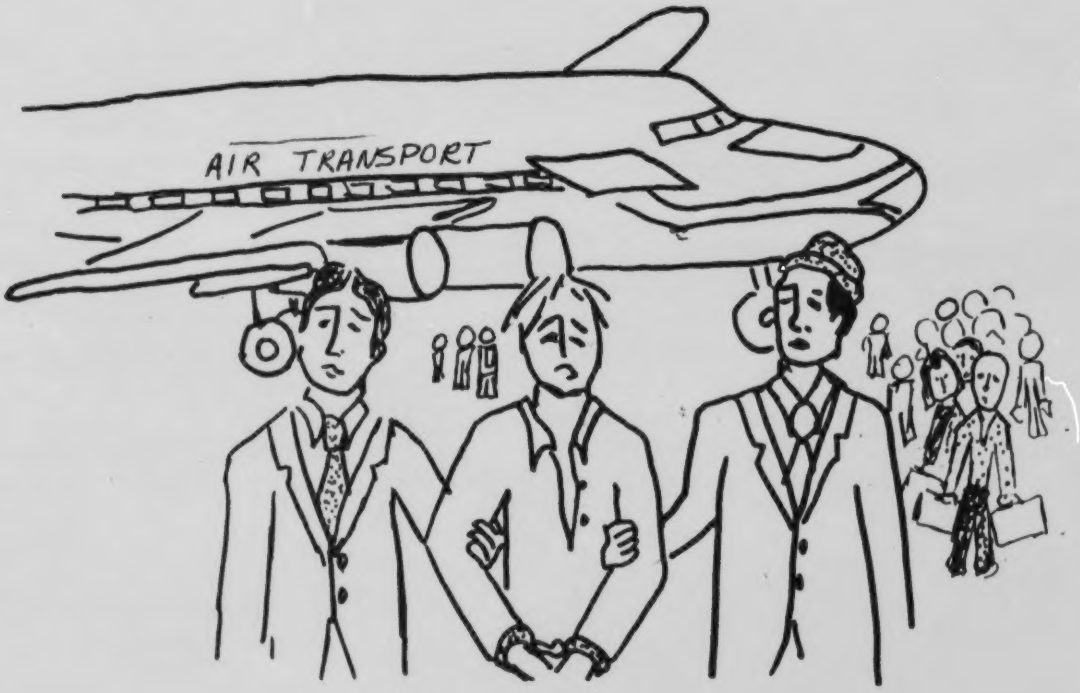
- The pictures on pages 10 to 16 represent governmental functions at various levels and within the different branches of government.
- Reproduce these pages as individual student worksheets, or prepare transparencies for classroom discussion and identification of the information requested on these pages.
- Assign a few students to work with each picture in developing a list of all the people needed for that function to take place. For example, with the skyjacking incident, not only the enforcement officers are involved, but the official who sends them out to duty; communications personnel; clerical personnel; fellow officers, etc.
    - These reports can be compared in class discussion with law enforcement in earlier periods in our history. (How many persons were involved in preventing an outlaw from holding up the stagecoach?)
    - What are some of the problems that students can identify with this growth of bureaucracy? How closely does the average citizen relate to governmental functions as performed by the bureaucracy?
    - How has the growth of democracy led to the need for an ombudsman? Introduce the term to the students and discuss the function. A discussion of the kind of person who would make a good student ombudsman will give it more meaning.

**Activity 3**

- As an outside assignment a student or students with particular interest may study in depth one department or governmental institution. At the community level, such a project would include on-site visits, interviews, and news sources, surveys to get a picture of the number of personnel involved, the nature of the work, interrelationships with other agencies, press and media coverage of its activities, etc.

**Activity 4**

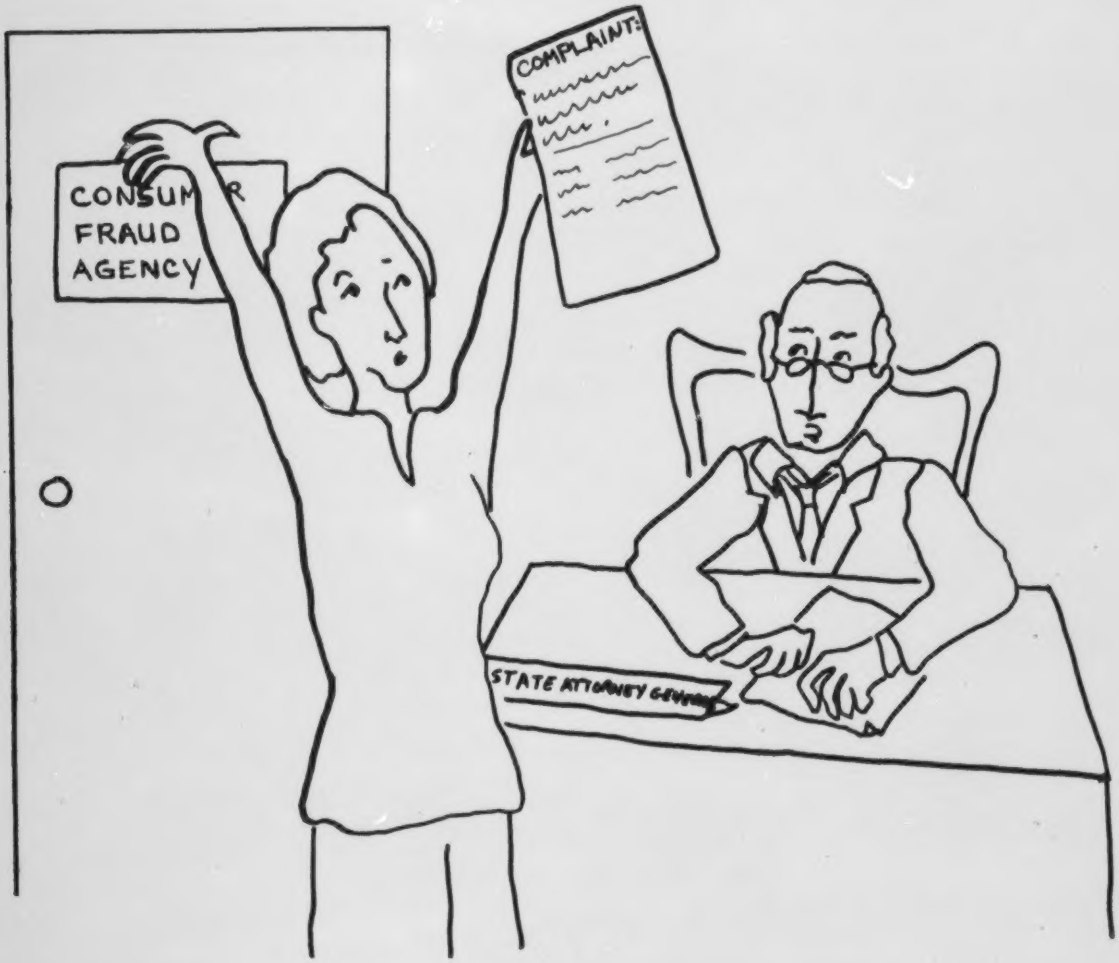
- An ongoing collection of pictures and headlines similar to the situations portrayed on pages 10 to 16 can be developed and analyzed by class members as an opportunity to review and widen the concepts developed by these activities.



Branch of government —
Level of government —

General purpose of governmental activity (circle one)    Facilitate    Promote    Restrict    Regulate

Why is this activity being carried out by this branch of the government?



Branch of government —
Level of government —

General purpose of governmental activity (circle one)    Facilitate    Promote    Restrict    Regulate

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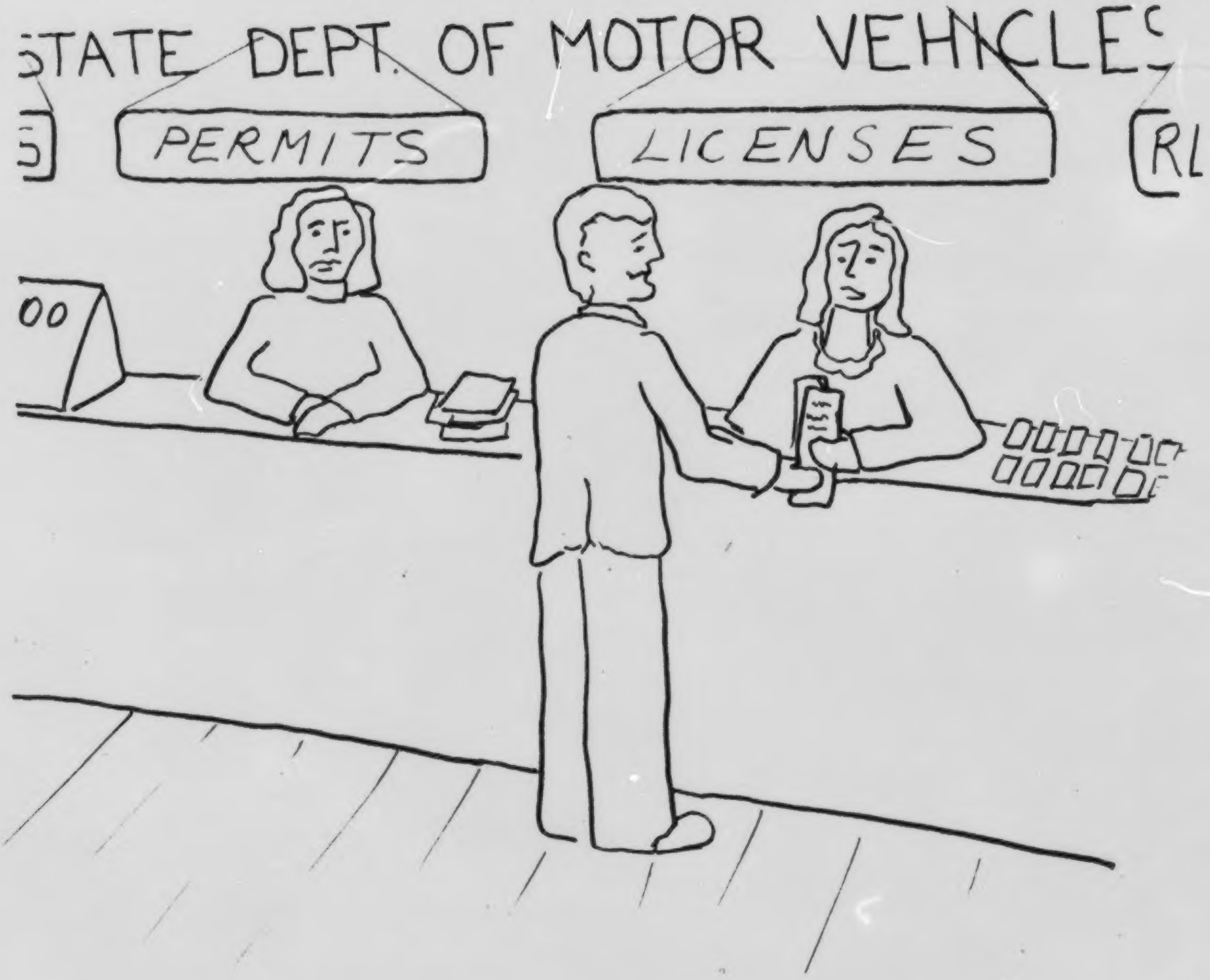
STATE DEPT. OF MOTOR VEHICLES
PERMITS
LICENSES
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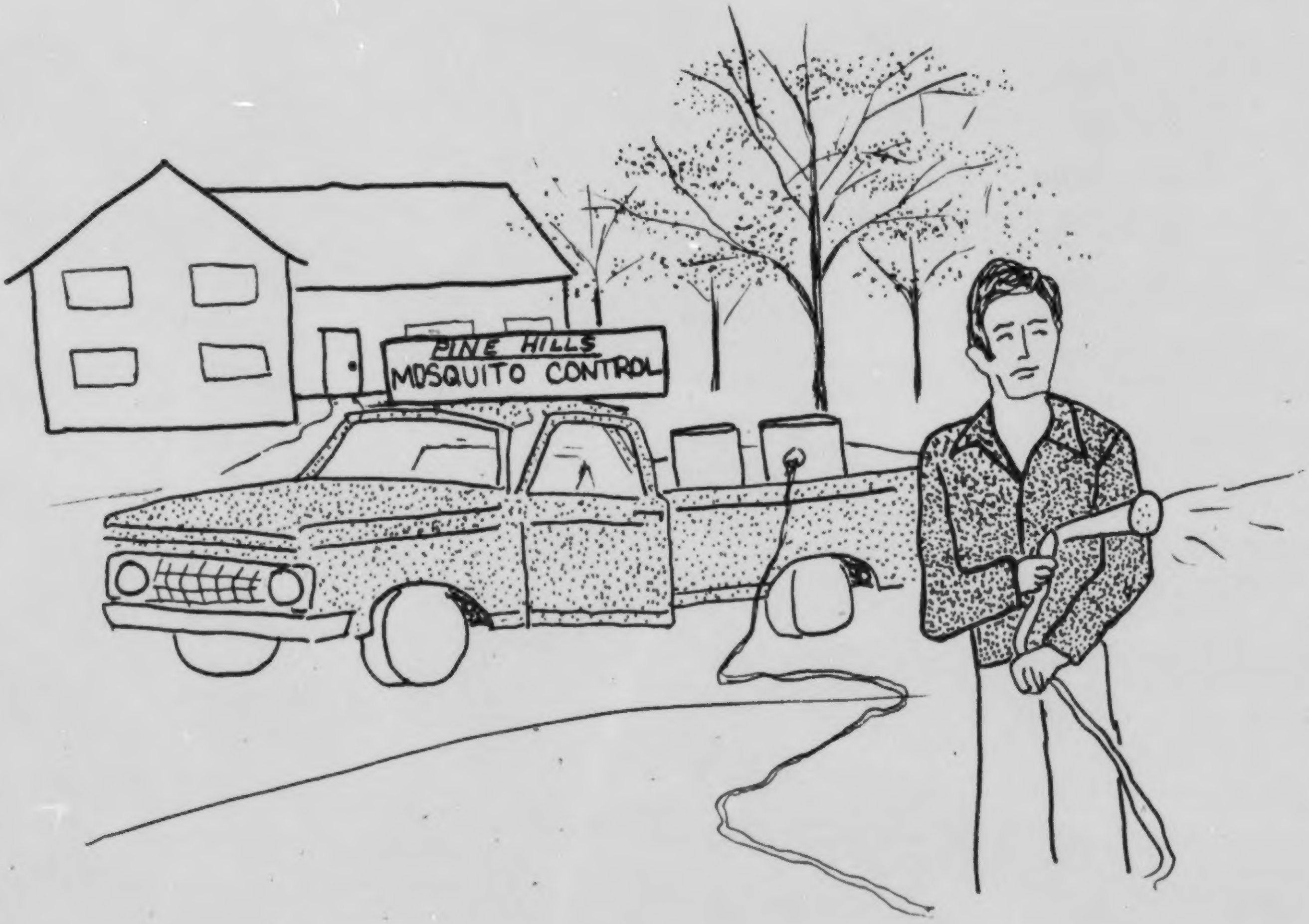
Branch of government —
Level of government —

| | | | | |
|---|---|---|---|---|
| General purpose of governmental activity (circle one) | Facilitate | Promote | Restrict | Regulate |

Why is this activity being carried out by this branch of the government?

17



Branch of government —
Level of government —

General purpose of
governmental activity
(circle one)
Facilitate Promote Restrict Regulate

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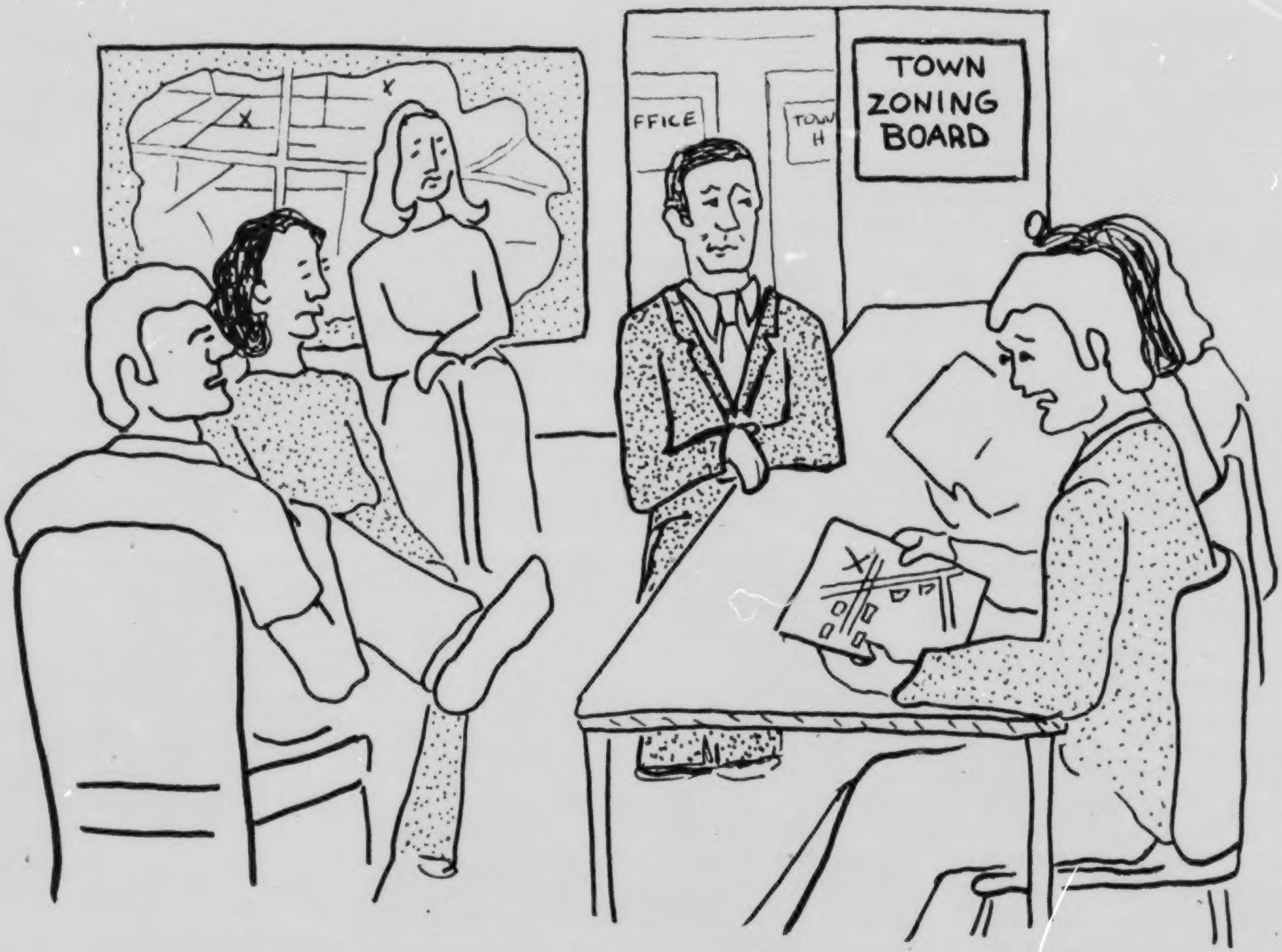
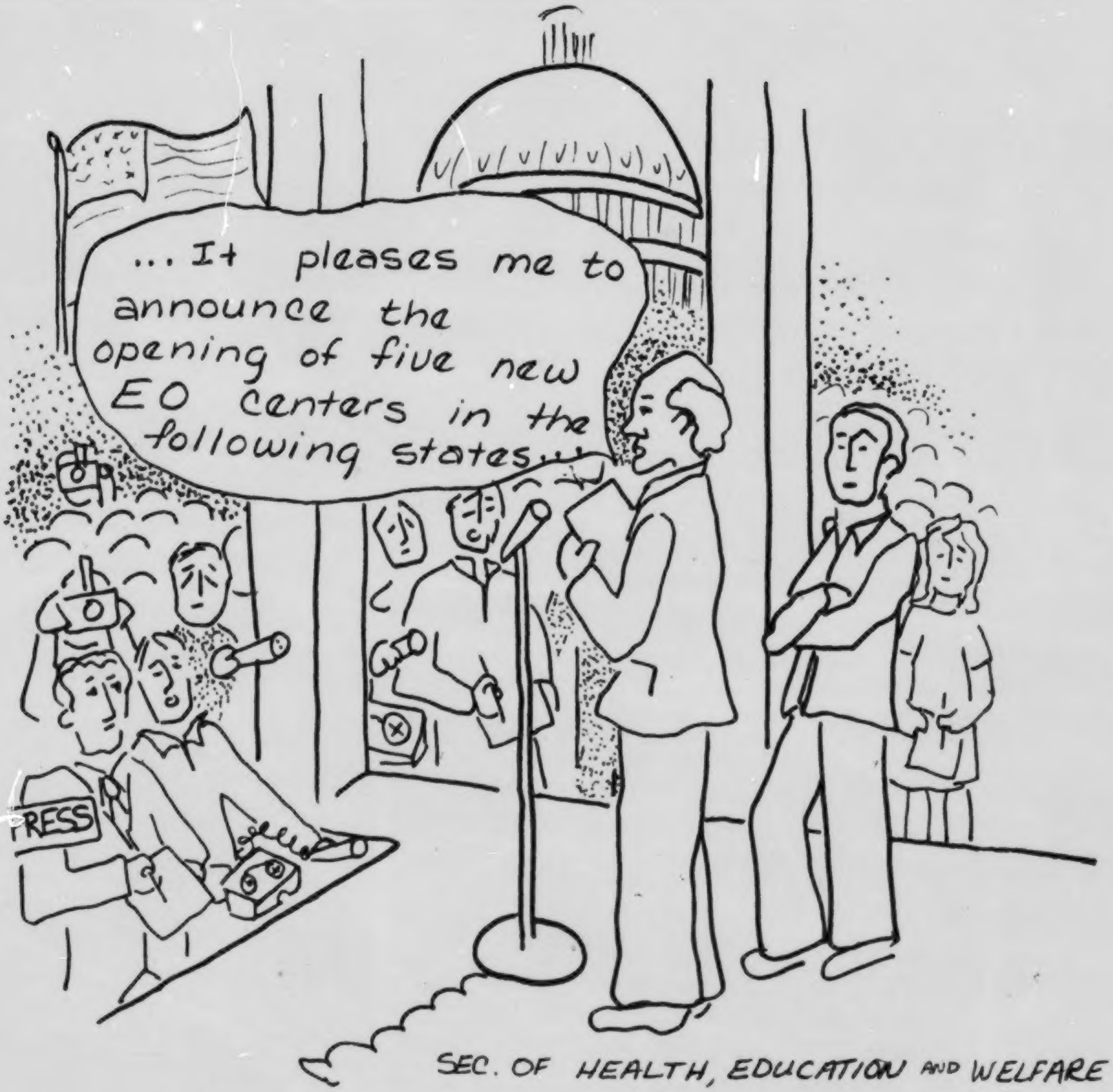


Branch of government —
Level of government —

General purpose of
governmental activity Facilitate Promote Restrict Regulate
(circle one)

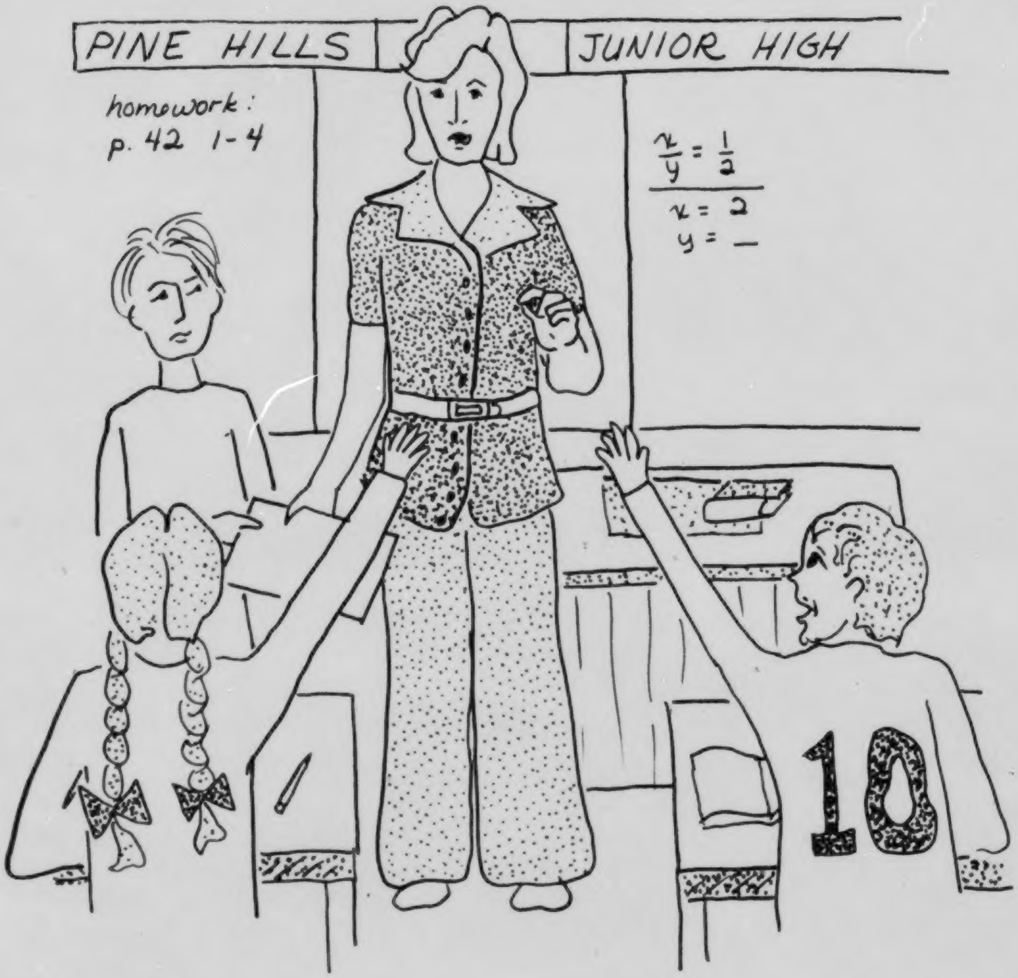
Why is this activity being carried out by this branch of the government?


...It pleases me to announce the opening of five new EO centers in the following states...
PRESS
SEC. OF HEALTH, EDUCATION AND WELFARE

Branch of government —
Level of government —

| | | | | |
|---|---|---|---|---|
| General purpose of governmental activity (circle one) | Facilitate | Promote | Restrict | Regulate |

Why is this activity being carried out by this branch of the government?



Branch of government —
Level of government —

General purpose of governmental activity — Facilitate Promote Restrict Regulate
(circle one)

Why is this activity being carried out this branch of the government?

## Knowledge Objective 4

*to understand the structural organization of government at the national, state, and local level.*

### Activity 1

(Each of the steps for this activity follows in logical progression.)

- Most people in drawing a chart showing how the government is organized will begin with a box labeled people.

PEOPLE

- Discuss what is meant by the word, people. Have students use dictionaries, to decide what characteristics the persons who make up the people might have.
- Prepare a diagram for display, or on a worksheet, which shows a variety of roles, interests, and/or interest groups with which a person may identify, making your model fit the community in which the students live.

Related Understandings for these activities:

Grade 7: THE ORGANIZATION OF THE NEW YORK STATE GOVERNMENT AS WELL AS THE UNITED STATES GOVERNMENT IS DESCRIBED IN A WRITTEN CONSTITUTION.

Grade 8: KNOWLEDGE OF THE CONSTITUTION IS NEEDED AS A BASIC FOUNDATION FOR UNDERSTANDING THE FUNCTIONING OF THE FEDERAL GOVERNMENT.

THE FRAMEWORK OF GOVERNMENT UNDER THE CONSTITUTION IS BASED UPON IMPORTANT POLITICAL PRINCIPLES.

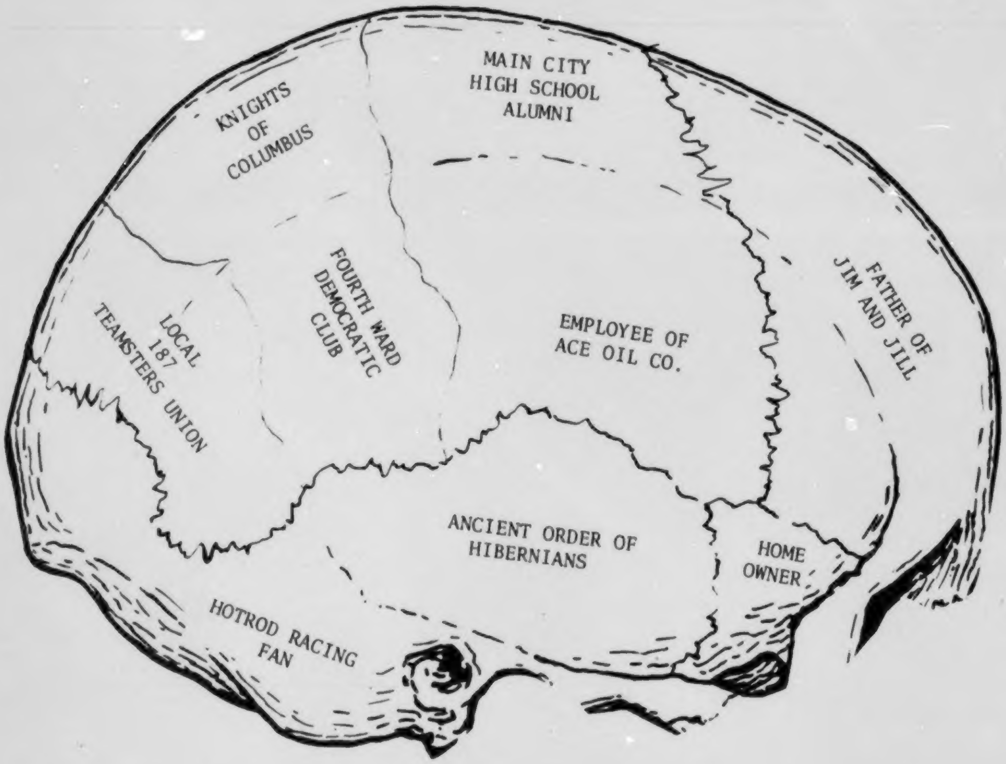
Understandings already introduced at lower grades:

Grade 4: OUR GOVERNMENT HAS THREE SEPARATE BRANCHES TO PERFORM THE THREE MAJOR TASKS OF ANY GOVERNMENT.

Grade 2: IN A DEMOCRACY, GOVERNMENT OFFICIALS ARE ELECTED OR APPOINTED BY OTHER ELECTED OFFICIALS.

- Using the "brain" on the next page, have students make a diagram of all those roles, interests, etc., which might affect the way this person would think about government. The other characteristics should be coded as "non-governmental influences." Students should be prepared to explain the relationship which they perceive between the role or interest and government.
- On a sheet of newsprint or the chalkboard, have the class prepare a composite list of those roles and interests that have importance in influencing a person's opinions about government. The class may then prioritize these items, numbering from 1, for most important, through 5, for least important with respect to influencing a person's opinions about government. Examples of the way each of the prioritized influences would affect the person's stand on some issue in government should then be suggested.

A PERSON

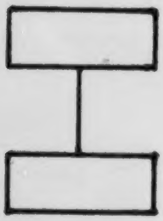

MAIN CITY HIGH SCHOOL ALUMNI
KNIGHTS OF COLUMBUS
FOURTH WARD DEMOCRATIC CLUB
LOCAL 187 TEAMSTERS UNION
EMPLOYEE OF ACE OIL CO.
FATHER OF JIM AND JILL
ANCIENT ORDER OF HIBERNIANS
HOME OWNER
HOTROD RACING FAN

- Students may draw similar diagrams depicting the various influences upon a parent or another adult in the community. These may then be compared and contrasted, to give some picture of the range of influences operating within one community.

### Activity 2

(Each of the steps for this activity follows in logical progression.)

- Introduce the process of making a chart of government by drawing two boxes on the chalkboard or a transparency.



Related Understandings for these activities:

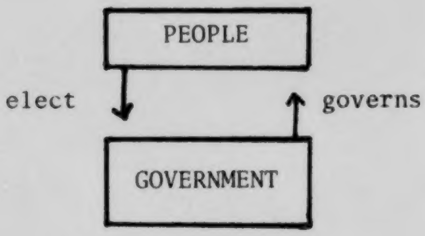
Grade 7: THE ORGANIZATION OF THE NEW YORK STATE GOVERNMENT AS WELL AS THE UNITED STATES GOVERNMENT IS DESCRIBED IN A WRITTEN CONSTITUTION.

Discussion of the process can include the information and questions below.

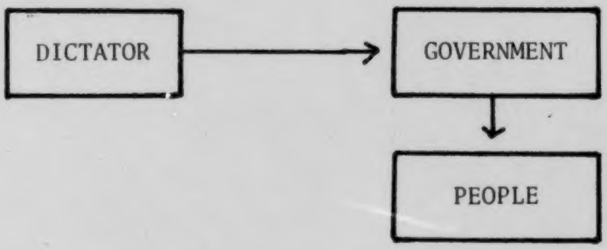
- In any organization chart, the top box often indicates the most powerful position, with the box below indicating a person/persons or an institution which receives orders from the person/persons in the box above it.

• In a democratic system, where should people be placed in relationship to government?

- Sometimes arrows are used, to show how one person or institution functions, in relation to another. Labels can be used to explain that function.

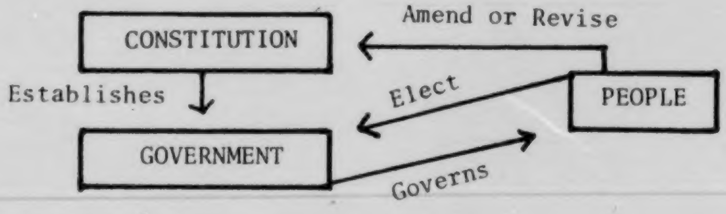


- How would this model be changed, to illustrate an undemocratic government, such as a dictatorship?



- If students have some understanding of the government of the Soviet Union, the people may be divided, with a group labeled "the Party," and the relationship of the Party to the Dictator may be added to the diagram.

• A diagram of constitutional government introduced a regulating force into the simple model. It also shows the supremacy of that force, although it may be subject to modification through a special process such as amendment.



**Activity 3**

Related Understandings for these activities:

Grade 8: THE FRAMEWORK OF GOVERNMENT UNDER THE CONSTITUTION IS BASED UPON IMPORTANT POLITICAL PRINCIPLES.

(Each of the steps for this activity follows in logical progression.)

Note: A chart is a good tool for demonstrating such concepts as federalism, checks and balances, and separation of powers. However, the diagram should be seen as a model subject to oversimplification. Some practical examples of current interactions between branches of government and level of government should be included.

- Construct a basic diagram to illustrate our federal system. (See p. 21.)

  - Have students read the following sections of the Constitution of the United States:
    Article 1, Section 8
    Article 2, Section 2
    Article 3, Section 1 (Much teacher help will be needed here.)
    Amendment 10

    Add the information from these readings to the basic diagram. (An overlay can be made. See figure 2.)

  - Using a current newspaper, students may select examples of actions which the federal government can take, and of those reserved for the states. Headlines or pictures can be cut out and positioned on a bulletin board with strings to the appropriate place on the basic diagram.

  - Work with students to find examples of local actions which the State has indicated to be actions of local government.

  - Help students with the meaning of implied powers, using an example from their lives. "When your parent says you can go to a school basketball game on Wednesday night, what other rights and privileges do you expect that permission to include?" Discussion may include such topics as companions, transportation, other destinations, e.g., a pizza place, hour of return. Explain that these extras are implied, from previous experience with parental permissions.

    After the above discussion, read clause 18, Section 8, of Article 2 of the Constitution of the United States. Which newspaper headlines show that the Constitution has been stretched to fit a need of the people today; which of the actual delegated powers was so stretched in this incident? (The term, elastic clause, should be easy to understand after this exercise.)

Figure 1

BASIC DIAGRAM: FEDERAL SYSTEM

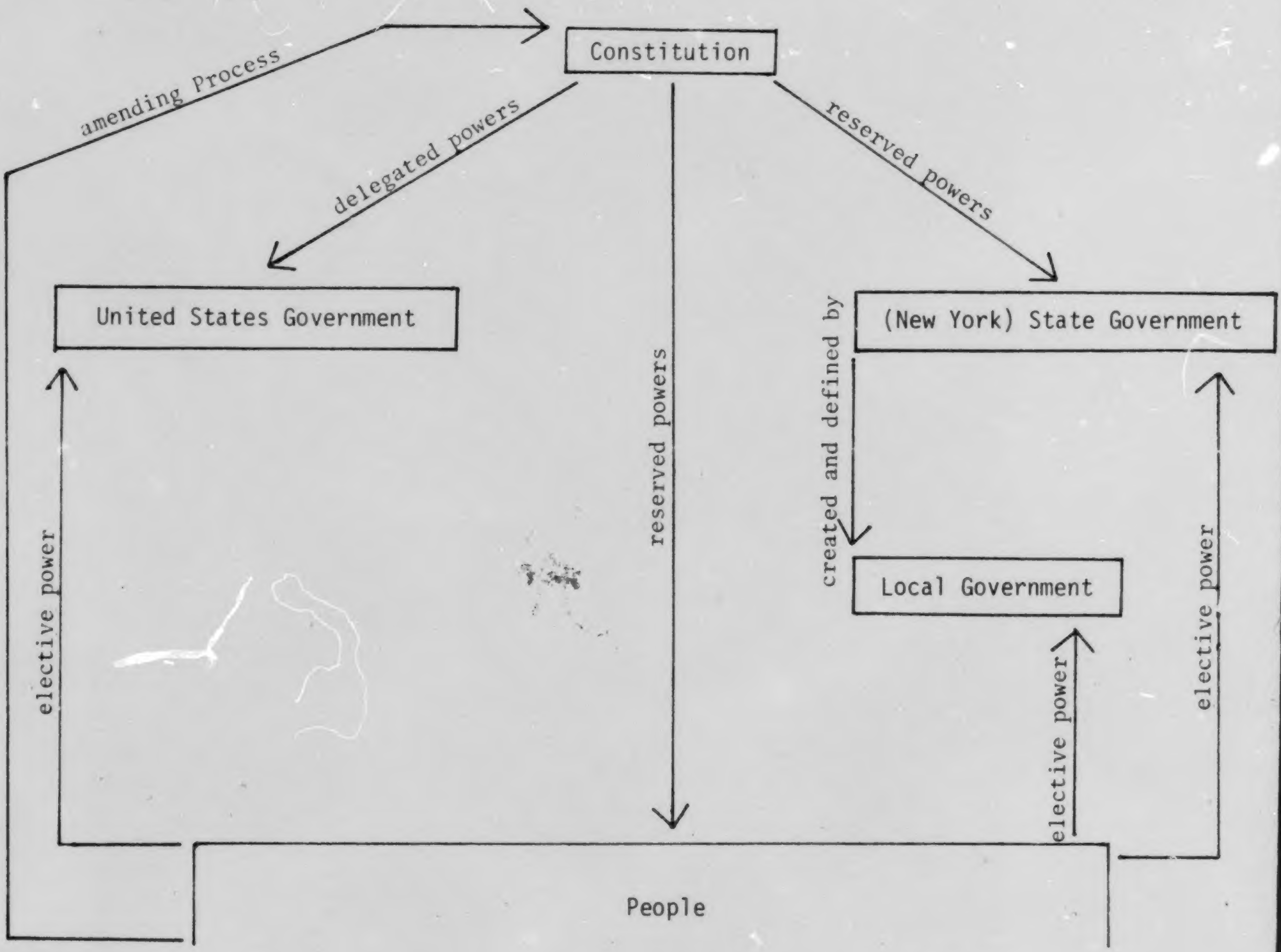
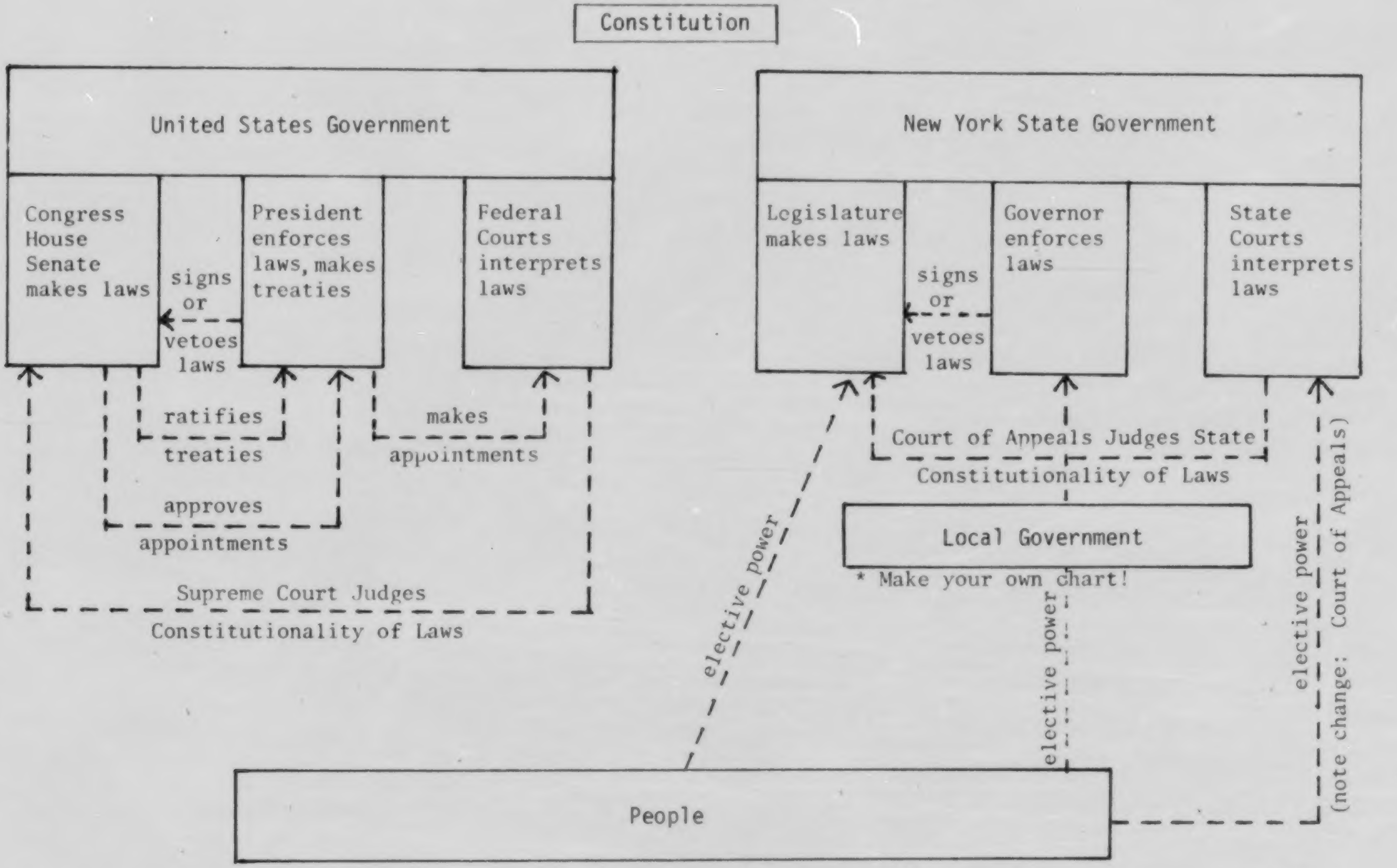


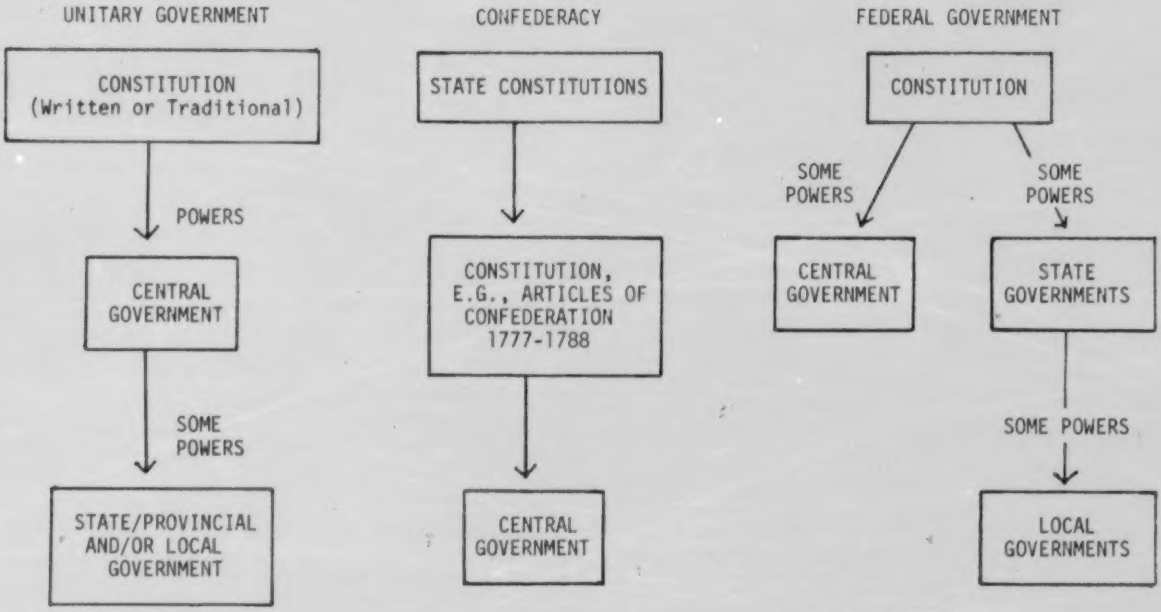
Figure 2

## ADDITIONS TO BASIC DIAGRAM: SEPARATION OF POWERS CHECKS AND BALANCES


Constitution
United States Government
Congress House Senate makes laws
President enforces laws, makes treaties
Federal Courts interprets laws
signs or vetoes laws
ratifies treaties
makes appointments
approves appointments
Supreme Court Judges Constitutionality of Laws
New York State Government
Legislature makes laws
Governor enforces laws
State Courts interprets laws
signs or vetoes laws
Court of Appeals Judges State Constitutionality of Laws
Local Government
* Make your own chart!
elective power
elective power
elective power
(note change: Court of Appeals)
People

* May not have complete separation of powers; use a local government that does: county vs. town vs. village vs. city

Figure 3



. UNITED KINGDOM
. FRANCE

- A comparative approach employing three simple diagrams may be used to illustrate and deepen understanding of our governmental system as a federal arrangement. The teacher may simply present a diagram of a unitary government structure and ask questions about it. Students may be charged with developing a diagram of United States government under the Articles of Confederation in developing a diagram of a confederacy. The third simple model illustrates the essence of the federal system as compared to the others. The diagram of the federal system may be further developed to show the division of government into three branches on both national and state levels (as in the diagram on page 22).

  - Can a unitary government be democratic? Give examples.
  - Does a constitution have to be written?
  - Why did the colonies set up a confederacy?
  - In what ways did the federal structure evolve from the historical setting?
  - What were some of the problems with this form of government?
  - What advantages did the founding fathers see in a federal system?
  - What does it mean to say that local governments are "creatures of the state?"

- Using the same basic diagram, add three boxes underneath both the United States Government and the New York State Government, to indicate the legislative, executive, and judicial functions. This could be done as an overlay for a transparency. (See p. 25.)
  - Draw in the interrelationships between branches.
  - Look for, and discuss, current examples of these actions in media and other news sources. (For local government, a student interview with a local official might elicit examples.)
  - Discuss meaning of the term, checks and balances.

### Activity 4

(Each of the steps for this activity ffollows in logical progression.)

Related Understandings for this activity:

Grade 7: THE ORGANIZATION OF THE NEW YORK STATE GOVERNMENT AS WELL AS THE UNITED STATES GOVERNMENT IS DESCRIBED IN A WRITTEN CONSTITUTION.

Grade 7: SUCCESSIVE NEW YORK STATE CONSTITUTIONS HAVE REFLECTED THE CHANGING NEEDS AND THE DESIRES OF THE PEOPLE OF THE STATE.

- To develop awareness of the influence of State government on their lives, have students "Take a Mindwalk" through their experiences on a school day.
  - On one side of a sheet of newsprint or the chalkboard record the event or action (beginning with waking up to a clock radio.) In the middle of the page, record how government affects that event or action. (e.g., regulation of radio broadcasting, establishment of a uniform time system.) At the right side, place a check, if the State government has any influence upon that event or action. (In the case of waking and the clock radio, most of the regulatory activity is federal. However, public broadcasting facilities may be subsidized by the State government.) The activities of a full day should be listed and classified.

| Event or action | Effect of government | State Influence | Branch of government |
|---|---|---|---|
| | | | |

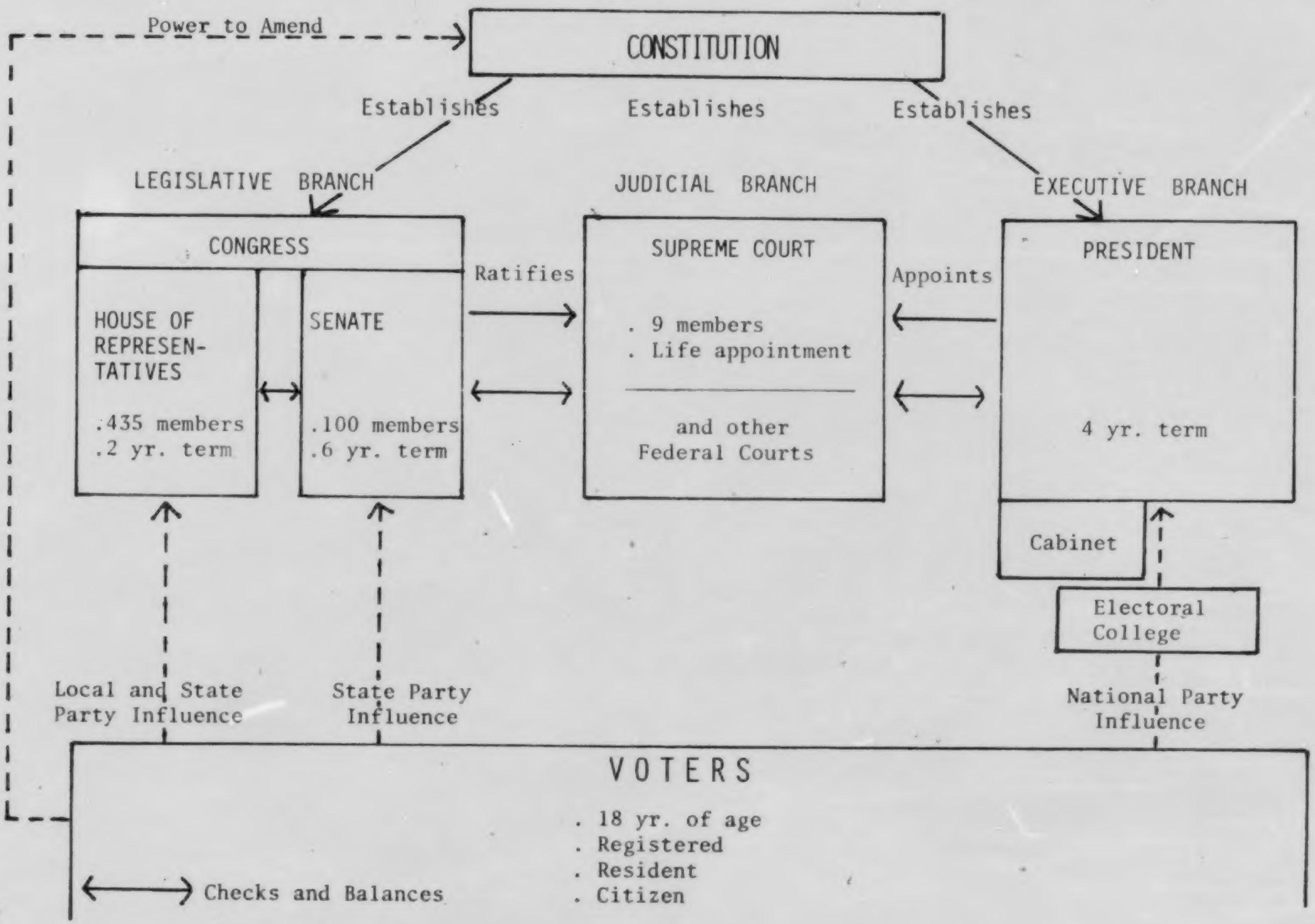
  - Provide students with an information sheet containing contents of state constitutions and the list of articles in the New York State Constitution, to use as a reference for this exercise.

(Text of this activity continued on p. 27.)

Figure 4

## STRUCTURE OF UNITED STATES CENTRAL GOVERNMENT

This chart is included to suggest the kinds of detail about the Federal Government that can be dealt with, if students express interest or raise questions.



The usual contents of state constitutions are:

1. Preamble: Sources of and reasons for the constitution.
2. Bill of Rights: List of the rights of the citizens.
3. Body: Outlines the structure and function of the three branches of government, provides for local government, etc.
4. Amending Article: Procedure for changing the constitution.
5. Schedule: The article which specifies how the constitution is to be (in reality, was) implemented.
6. Amendments.

The New York State Constitution contains twenty articles as follows:

(Preamble)

I. Bill of Rights
II. Suffrage
III. Legislative
IV. Executive
V. Officers and Civil Departments
VI. Judiciary
VII. State Finances
VIII. Local Finances
IX. Local Governments
X. Corporations
XI. Education
XII. Defense
XIII. Public Officers
XIV. Conservation
XV. Canals
XVI. Taxation
XVII. Social Welfare
XVIII. Housing
XIX. Amendments to Constitution (amending procedures)
XX. When To Take Effect

Related Understandings for these activities:

Grade 7: THE GOVERNMENT OF NEW YORK STATE CONTROLS AND SUPERVISES ITS PUBLIC EDUCATION UNDER A CENTRALIZED STRUCTURE WHICH RECEIVES ITS DIRECTION FROM THE CONSTITUTION AND LAWS OF THE STATE.

Understandings already introduced at lower grades:

Grade 5: THE SYSTEM OF FREE PUBLIC EDUCATION HAS BEEN VERY IMPORTANT IN THE DEVELOPMENT OF AMERICAN CULTURE.

Note for next section of this activity:

A major part of the work of State government that was related to the mindwalk exercise is carried out through the institutions that we refer to as "the Bureaucracy."

Bureaucracy usually refers to the permanent employees appointed through civil service examination or political patronage, who perform the clerical and other implementing duties to carry out the laws passed by the Legislature.

The majority of these positions are in the executive division.

On pages 28 to 30 are sections of the State Constitution related to the Legislature, Executive, Judiciary, Officers and Civil Departments, and Education.

- Have students, working individually or in small groups, complete the chart on page 30. The *New York State Red Book* and the *New York State Legislative Manual*, (usually) distributed to schools, one copy per school, through area legislators; (check with principal or librarian) will be useful references.

- Using the Constitutional excerpts on pages 28 to 30, with particular emphasis upon Executive, Officers and Civil Departments, and Education, have students suggest some types of services that the Bureaucracy would perform.

  - In which cases should the person carrying out the function be of the same political party as the Governor? Why?

    Note: Introduce the concepts of policy and policy decisions.

  - How does the Constitution provide that education is to be exempted from political influence? Why has this independence been considered important enough to continue this structure through each of the State Constitutions that New York has adopted?

- Additional activities related to the study of State government:
  - Have students make maps of the districts of their State Assembly and Senate members.
  - Arrange for an interview with a current or past state legislator. Students may ask questions on the committee system (What is it? Why is it used?) and the work of some of the more important committees.
  - Plan visits to State government buildings, including State courts in regional centers or in Albany.

## ARTICLE III

### Legislature

"**[Legislative power.]** *Section 1. The legislative power of this state shall be vested in the senate and assembly.*

"**[Number and terms of senators and assemblymen.]** *§ 2. The senate shall consist of fifty members. ... The senators shall...be chosen for two years. The assembly shall consist of one hundred and fifty members. The assemblymen...shall be chosen for two years.*

"**[Members; qualifications; not to receive certain civil appointments; acceptance to vacate seat.]** *§ 7. No person shall serve as a member of the legislature unless he or she is a citizen of the United States and has been a resident of the state of New York for five years, and except as hereinafter otherwise prescribed, of the assembly or senate district for the twelve months immediately preceding his or her election... .*

"**[Powers of each house.]** *§ 9. A majority of each house shall constitute a quorum to do business. Each house shall determine the rules of its own proceedings, and be the judge of the elections, returns and qualifications of its own members; shall choose its own officers; and the senate shall choose a temporary president and the assembly shall choose a speaker.*

"**[Journals; open sessions; adjournments.]** *§ 10. Each house of the legislature shall keep a journal of its proceedings, and publish the same.*

"**[Bills may originate in either house; may be amended by the other.]** *§ 12. Any bill may originate in either house of the legislature, and all bills passed by one house may be amended by the other.*

"**[Enacting clause of bills; no law to be enacted except by bill.]** *§ 13. The enacting clause of all bills shall be 'The People of the State of New York, represented in Senate and Assembly, do enact as follows,' and no law shall be enacted except by bill.*

## ARTICLE IV

### Executive

"**[Executive power; election and terms of governor and lieutenant-governor.]** *Section 1. The executive power shall be vested in the governor, who shall hold his office for four years; the lieutenant-governor shall be chosen at the same time, and for the same term. The governor and lieutenant-governor shall be chosen at the general election held...each fourth year. They shall be...chosen jointly, by the casting by each voter of a single vote applicable to both offices... .*

"**[Qualifications of governor and lieutenant-governor.]** *§ 2. No person shall be eligible to the office of governor or lieutenant-governor, except a citizen of the United States, of the age of not less than thirty years, and who shall have been five years next preceding his election a resident of this state.*

"**[Powers and duties of governor; compensation.]** *§ 3. The governor shall be commander-in-chief of the military and naval forces of the state. He shall have power to convene the legislature, or the senate only, on extraordinary occasions. At extraordinary sessions no subject shall be acted upon, except such as the governor may recommend for consideration. He shall communicate by message to the legislature at every session the condition of the state, and recommend such matters to it as he shall judge expedient. He shall expedite all such measures as may be resolved upon by the legislature, and shall take care that the laws are faithfully executed.*

"**[Action by governor on legislative bills; reconsideration after veto.]** § 7. *Every bill which shall have passed the senate and assembly shall, before it becomes a law, be presented to the governor; if he approves, he shall sign it; but if not, he shall return it with his objections to the house in which it shall have originated, which shall enter the objections at large on the journal, and proceed to reconsider it. If after such reconsideration, two-thirds of the members elected to that house shall agree to pass the bill, it shall be sent together with the objections, to the other house, by which it shall likewise be reconsidered; and if approved by two-thirds of the members elected to that house, it shall become a law notwithstanding the objections of the governor. In all such cases the votes in both houses shall be determined by yeas and nays, and the names of the members voting shall be entered on the journal of each house respectively. If any bill shall not be returned by the governor within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law in like manner as if he had signed it, unless the legislature shall, by their adjournment, prevent its return, in which case it shall not become a law without the approval of the governor. No bill shall become a law after the final adjournment of the legislature, unless approved by the governor within thirty days after such adjournment. If any bill presented to the governor contain several items of appropriation of money, he may object to one or more of such items while approving of the other portion of the bill.*

## ARTICLE VI

### Judiciary

"**[Unified court system; organization; process.]** *Section 1. a. There shall be a unified court system for the state. The state-wide courts shall consist of the court of appeals, the supreme court including the appellate divisions, thereof, the court of claims, the county court, the surrogate's court and the family court, as hereinafter provided. The legislature shall establish in and for the city of New York, as part of the unified court system for the state, a single, city-wide court of civil jurisdiction, as hereinafter provided, and may upon the request of the mayor and the local legislative body of the city of New York, merge the two courts into one city-wide court of both civil and criminal jurisdiction. The unified court system for the state shall also include the district, town, city and village courts outside the city of New York, as hereinafter provided.*

"**[Court of appeals; organization; designations; vacancies, how filled.]** § *2. a. The court of appeals is continued. It shall consist of the chief judge, the six elected associate judges now in office, who shall hold their offices until the expiration of their respective terms, and their successors, who shall be chosen by the electors of the state and such justices of the supreme court as may be designated for service in said court as hereinafter provided. The official terms of the chief judge and elected associate judges shall be fourteen years... . Five members of the court shall constitute a quorum, and the concurrence of four shall be necessary to a decision; but no more than seven judges shall sit in any case.*

"**[Court of appeals; jurisdiction.]** § *3. a. The jurisdiction of the court of appeals shall be limited to the review of questions of law except where the judgment is of death, or where the appellate division,...finds new facts... .*

## ARTICLE V

### Officers and Civil Departments

"**[Comptroller and attorney-general; payment of state moneys without audit void.]** *Section 1. The comptroller and attorney-general shall be chosen at the same general election as the governor and hold office for the same term, and shall possess the qualifications provided in section 2 of article IV. The legislature shall provide for filling vacancies in the office of comptroller and of attorney-general. No election of a comptroller or an attorney-general shall be had except at the time of electing a governor.*

"**[Civil departments in the state government.]** § 2. *There shall be not more than twenty civil departments in the state government, including those referred to in this constitution. The legislature may by law change the names of the departments referred to in this constitution.*

"**[Assignment of functions.]** § *3. Subject to the limitations contained in this constitution, the legislature may from time to time assign by law new powers and functions to departments, officers, boards, commissions or executive offices of the governor, and increase, modify or diminish their powers and functions. Nothing contained in this article shall prevent the legislature from creating temporary commissions for special purposes or executive offices of the governor and from reducing the number of departments as provided for in this article, by consolidation or otherwise.*

"**[Department heads.]** § *4. The head of the department of audit and control shall be the comptroller and of the department of law, the attorney-general. The head of the department of education shall be The Regents of the University of the State of New York, who shall appoint and at pleasure remove a commissioner of education to be the chief administrative officer of the department... . Except as otherwise provided in this constitution, the heads of all other departments and the members of all boards and commissions, excepting temporary commissioners for special purposes, shall be appointed by the governor by and with the advice and consent of the senate and may be removed by the governor, in a manner to be prescribed by law.*

## ARTICLE XI

## Education

"**[Common schools.]** *Section 1. The legislature shall provide for the maintenance and support of a system of free common schools, wherein all the children of this state may be educated.*

"**[Regents of the University.]** § *2. The corporation created in the year one thousand seven hundred eight-four, under the name of The Regents of the University of the State of New York, is hereby continued under the name of The University of the State of New York. It shall be governed and its corporate powers, which may be increased, modified, or diminished by the legislature, shall be exercised by not less than nine regents."*

## Activity 6

Although local government is the governing institution closest to the individual and the one on which the average person can bring the most pressure, it is often forgotten in teaching about the structure of government. To emphasize its importance, the syllabus understandings related to the knowledge objective and dealing with local government are all printed on this page.

### Knowledge Objective 4

*to understand the structural organization of government at the national, state and local level.*

Related Understandings:

Grade 7: THE NEW YORK STATE GOVERNMENT HAS TAKEN CARE OF THE ADMINISTRATION OF THE DIFFERING NEEDS OF ITS PEOPLE IN DIFFERING AREAS BY PROVIDING FOR LOCAL GOVERNMENT.

Grade 1: IN A DEMOCRACY, GOVERNMENT OFFICIALS ARE ELECTED OR APPOINTED BY OTHER ELECTED OFFICIALS.

Grade 7: COUNTY GOVERNMENT, WHICH HAS A DUAL ROLE IN NEW YORK STATE, IS ALSO CHANGING TO MEET THE CHALLENGE OF THE NEW WAY OF LIFE IN MOST PARTS OF NEW YORK STATE—THE SPREAD OF PEOPLE AND INDUSTRY FROM THE CITY TO THE COUNTRYSIDE.

Grade 2: MOST PEOPLE TODAY LIVE IN VILLAGE, CITY, OR SUBURBAN NEIGHBORHOODS.

Grade 7: COUNTY GOVERNMENT, WHICH HAS TENDED TO REMAIN ANTIQUATED, HAS BEEN ENCOURAGED TO MODERNIZE BY THE NEW YORK STATE LEGISLATURE.

Grade 7: THE TOWN, WHICH IS A SYMBOL OF LOCAL INITIATIVE SINCE IT WAS THE FIRST UNIT OF LOCAL GOVERNMENT, HAS VARIED STRUCTURES EVEN THOUGH THERE HAVE ALWAYS BEEN STANDARDS IMPOSED UPON IT BY THE STATE.

Grade 2: LOCAL GOVERNMENTS PROVIDE MANY NEEDED SERVICES.

Grade 7: THE STRUCTURE AND FUNCTIONS OF THE VILLAGE IN NEW YORK STATE OVERLAP WITH THE STRUCTURE AND FUNCTIONS OF THE TOWN.

THE CREATION OF CITIES IN NEW YORK STATE IS A POWER GRANTED TO THE STATE LEGISLATURE WITH CONSTITUTIONAL RESTRICTIONS.

THE PRIME FUNCTIONS OF CITIES, WHICH HAD THEIR ORIGIN AND PERIODS OF GREATEST GROWTH WHEN THE STATE WAS PREDOMINANTLY RURAL, ARE NO LONGER EXCLUSIVELY CITY FUNCTIONS.

- Use the chart on page 33 or one redesigned to include local government at your community level.
    - Have students circle the local government unit with which you will be dealing.
    - Provide detail concerning the chart: government bureaus or offices, names of courts, etc., needed to develop understanding of the local operations.
    - Discover the local government bureaucracy: under which units does it exist, where is it located, what kinds of jobs are done. Some hypotheses here can be checked against data supplied by interviews with government officials and class visits.
- The overlap in functions among federal, state, regional, and local governments can best be illustrated by some local activities.
    - Invite a staff person from a local social agency, for example, someone working with deinstitutionalized mental patients, or someone who knows about the social services system to describe the ways that many levels of government are involved.
    - The two reading passages on page 34 are rather sophisticated for student reading, but offer excellent examples of this situation. Have students who can handle them diagram what is happening with stick figures, and explain it to the class.

## Knowledge Objective 5

*to identify the function and interaction of each organizational branch or division of government.*

### Activity 1

Note to teacher:

Simulation of the legislative process can be a good procedure for developing understanding of the function and interaction of each organizational branch or division of a government, provided it is not oversimplified or divested of reality. The activity which initiates this section can serve as a pretest for the teacher to determine the level of sophistication of the students with respect to the legislative process. Some

(Text of this activity continued on p. 35.)

Related Understandings for these activities:

Grade 7: SUCCESSIVE STATE CONSTITUTIONS HAVE REFLECTED THE CHANGING NEEDS AND THE DESIRES OF THE PEOPLE OF THE STATE.

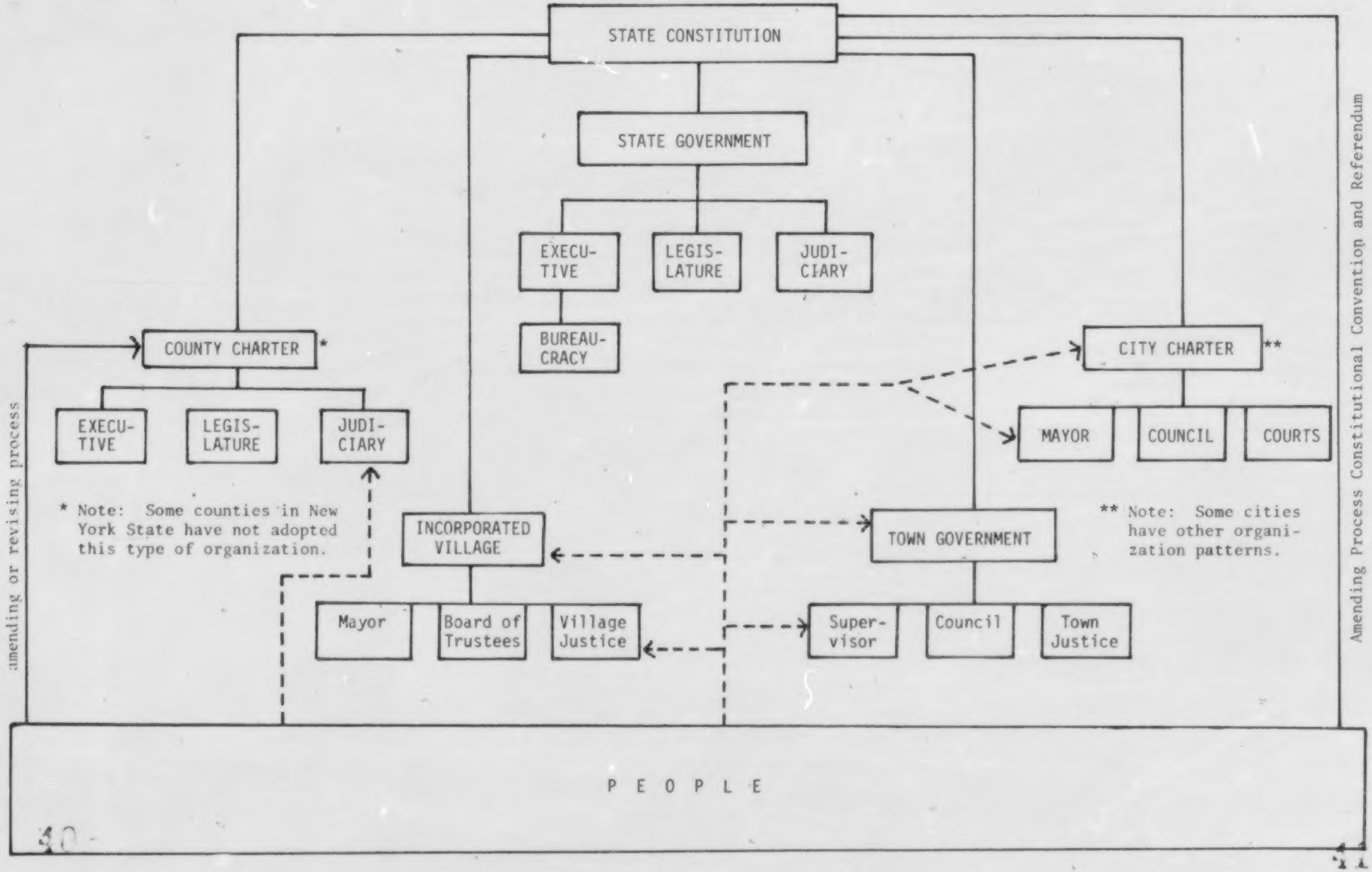
POLITICAL PARTIES ARE ORGANIZATIONS FORMED BY THE PEOPLE FOR THE SPECIFIC PURPOSE OF GETTING THE BEST POSSIBLE RESPONSIBLE GOVERNMENT.

Grade 8: THE FRAMEWORK OF GOVERNMENT UNDER THE CONSTITUTION IS BASED UPON IMPORTANT POLITICAL PRINCIPLES.

Indicate at each level
and branch who:

- makes the law
- enforces the law
- interprets the law

# STRUCTURE OF ORGANIZATION OF LOCAL GOVERNMENT UNDER THE NEW YORK STATE CONSTITUTION



* Note: Some counties in New York State have not adopted this type of organization.

** Note: Some cities have other organization patterns.

*"Somewhere, in every organized county in the United States, is a public health official whose official title is "sanitarian." Sometimes he is employed by the county itself, sometimes by the major city in the county, sometimes by a regional health department. The sanitarian, an office created as a product of a formal cooperative program, provides an excellent, if extreme, example of the intermeshing of federal, state, and local functions from the perspective of the public servant. Look at the sanitarian in Arkansas' Saline County, population 25,000. He is appointed by the state under merit standards established by the federal government in collaboration with the professional associations of public health administrators. Most of his salary as sanitarian comes from state and federal funds but it is supplemented by the largest city in the county which pays him for his services as city plumbing inspector. His office and its equipment are supplied by the county, with an assist from the city, and part of his expenses are paid from county funds."*

(From American Federalism: A View from the States by Daniel J. Elazar. New York. Thomas Y. Crowell. 1966. p. 171.)

*"Oyster Bay - A recommendation by the Tri-State Regional Planning Commission that 50,000 units of low-income housing be built in Nassau during the next 25 years is 'Blackmail,' executives of Oyster Bay and Hempstead towns say.*

*"Oyster Bay Supervisor Joseph Colby and Hempstead Town Presiding Supervisor Francis T. Purcell, both Republicans, issued a joint statement criticizing the plan and saying that it should not be accepted by officials of the Department of Housing and Urban Development.*

*"The Tri-State Commission, recognized by the federal government as the official planning agency for metropolitan New York, released housing and land use plans last month. The plans, which have been in the works for the last three years, are prerequisites for federal aid.*

*"The suggestion that 1,900 low-income housing units be built in Nassau every year for the next 25 years is 'the exact form of blackmail currently being practiced by HUD,' Colby and Purcell said.*

*"HUD denied Hempstead and Oyster Bay towns community improvement grants earlier this year because the towns had refused to comply with the agency's demands for construction of low-income housing. Purcell said the commission's plan would make HUD grants contingent upon construction of the 50,000 units.*

*"Purcell said he was certain that North Hempstead Town Supervisor Michael Tully feels the same way he and Colby do. Tully was unavailable for comment.*

*"Arthur Kunz, planning coordinator for the Nassau-Suffolk Regional Planning Board, said the commission's housing recommendations would have less impact on Suffolk than on Nassau. He said the report called for the construction of fewer units of low-income housing in Suffolk than in Nassau and that the net effect of an increase in low-income housing would be modest.*

*"Richard Bartholomew, Suffolk's intergovernmental relations director, said county officials haven't yet assessed the report."*

(From "Low-Income Housing Hit," by Joy Allen. Newsday. August 4, 1977.)

Understandings already introduced at lower grades:

Grade 5: OUR GOVERNMENT HAS THREE SEPARATE BRANCHES TO PERFORM THE THREE MAJOR TASKS OF ANY GOVERNMENT.

Some alternatives to develop greater reality in a local or school-based situation are suggested for classes which need to develop greater understanding.

The major activity, simulation of State legislative action, is supported by a number of quoted passages and fact sheets describing the process as it operates in New York State.

- Propose a situation in which a family of several teenagers are left under the authority of an eighteen-year-old brother or sister for the weekend. The parents have said that his/her decisions are final, but they should be discussed and each child should have opportunity for input before the decision is made.

  The question to be decided is what this family group will do Saturday evening. The parents have said that everyone must be included, if any party is held.

  The brother/sister in charge seems to want a quiet party to which each child invites one friend, records will be played, and they will send out for pizza. The youngest family member wants an open house with as many of one's gang invited as possible, and a lot of "things going on."

  - In small groups, students may spend a few minutes brainstorming all of the ways that the senior family member can be influenced to change his/her preference from small party to open-house. For the first five minutes, no idea should be rejected; students may build on each other's ideas, but not cancel any. Ideas should be jotted down on a large piece of paper. In the second five minutes, the group should select the three most effective techniques, for presentation to the class.

  - In large group, compare the lists of most effective techniques. Then ask students to decide which of these techniques are used by adults to influence decisions. (The teacher will need to exercise some control over the more exuberant responses, by using some less emotionally-toned descriptions of intergroup behavior. However, permit a wide range in terms of desirability, of behaviors to emerge, including flattery, oral persuasion, "trade-offs," influence-buying procedures, even some blackmail-type activities.)

  - Discuss what type of person seemed to be most effective in this situation; who made his/her technique pay off, in terms of influencing the decision-maker.

  - Note that the sister/brother in charge will be the rule-enforcer. What role did he/she play in this discussion?

- Which activities would the public not accept in a public decision-making situation? (Mention of Watergate, "Korea-gate," etc. may help in this analysis.)

- Now, propose a legislative action to be taken at the local level. If the students perceive their student government organization as having legislative power, ask for suggestions of a legislative action that could be taken. Otherwise, consider a local governmental agency such as the community School Board, the Village Board, a local Chamber of Commerce, and a local labor union council. Identify an issue that will require legislative action. (Some discussion of the more formal differences between a ruling in family council and a local law or ordinance may be necessary.)

  - Let the class select roles and role-play the legislative action. If possible, tape-record or video-tape the action. (A "neutral observer" might be brought in to write a description of the action.)

  - Discuss the similarities and differences between the family-council activity and this action. To what degree did anyone in the local legislative action try to influence anyone else? What role did the "law enforcer" play, e.g., the Student Government Advisor, or the executive concerned with any of the local government agencies suggested?

  - If the session has been taped, play the recording and ask the students to assess their effectiveness. How real does the situation seem? The neutral observer's report could be similarly analyzed.

- Alternatives and additional activities to build understanding:

  - Visits to meetings of local governmental agencies are usually very confusing to students, because they do not see much evidence of influencing of the decision-makers. A class visit, with some questions to submit to a member of the legislative body in a follow-up interview might elicit this kind of information.

  - A detailed study of the progress of a local issue, such as the imposition of a "youth curfew," could be followed through the local press. A "cast of characters" involved in the decision could be posted on the bulletin board, with news clippings keyed to indicate the actions being taken by any of the participants.

## Briefing Activities for State Legislature Simulations

- Depending upon the ability levels, the students may read these as individual assignments, or have the information presented through use of transparencies and simulated interviews with the various "power figures" as they are introduced. Individual students or small groups of students may be provided with magic markers and large pieces of newsprint and assigned to illustrate one or more of the various stages in the process. The large illustrations of the various stages can be taped to the classroom wall with masking tape while the legislative process is being studied.

- Note, that the precise number of steps in the process as presented in the text should not be seen as important, or the subject for rote learning. Understanding of what is going on and why it is done should be the major goal.

## Alternative activities

- Have students read selected excerpts from Peter Berle's book on the New York State Legislature, *Does the Citizen Stand A Chance?* Students may react to the excerpts in small groups before discussing them in a large group session. Discussion questions might include:

  - Does the Legislature seem less democratic in its operation than it did before Berle's comments were read? Explain.

  - How can the information from Berle's book be of practical use to the involved citizen?

  - What are some examples cited by Berle of how the legislative machinery really works as opposed to how it is supposed to work?

  - Why has the "law-making machinery" been taken over by a handful of people? What accounts for this?

- Have more able students read chapters of Berle's book and give reports on the following topics:

  - How it happens that the Governor is in reality the chief law-maker.

  - What are some ways in which the legislative process may be improved? ("Does the citizen stand a chance?")

  - The role of lobbyists in the legislative process.

- When students have some familiarity with the procedures, the class may be involved in a simulation exercise in which class members will role-play relevant officials of State government. As members of a house of the state legislature, most members of the class will attempt to formulate and enact a law. The exercise may require several days to be carried through to completion. (See pp. 40-41 for procedures.)

  Possible roles include:

  - governor
  - presiding officer, e.g., speaker
  - clerk
  - daily journal writers (2-3)
  - committee members (6+)
  - members of the house (class)
  - newspaper reporters
  - judge(s)
  - lobbyists

To promote maximum involvement and interest of students, each student may "wear more than one hat" in the course of the exercise.

- To make the process more fun, the bill may deal with a school matter. Later its "constitutionality" may be judged against existing New York State Education Law as interpreted by the principal.
- To reflect the disproportionate influence of the governor in the legislative process, the role of governor may be played by the teacher, a class dean, a principal, or an influential student. The initial bill may be drawn up by the governor in consultation with the house leadership and/or several of the party faithful from among the legislators.
- Once prepared, the bill will be read before the assembled legislators by the clerk. Copies of the bill will be duplicated and available to each member of the house. Some students will be responsible for keeping a record of proceedings and publishing them in a daily house journal. Additionally, newspaper accounts and editorials regarding the proposed legislation may be prepared by other students.
- One possible variation would be for one class to be the senate and another class to be the assembly. Another variation would be to divide the class in two with each half constituting one of the two houses.
- After the first reading, the presiding officer of the house will refer the bill to committee. The committee chairperson will be appointed by the presiding officer, perhaps with the understanding that his/her loyalty is expected. Several students should constitute the committee and carry out its function including a public hearing which may be held before the class.
- After the committee has made its recommendations to the house and the third reading takes place, the full house will debate the bill.
- If a second house is involved in the simulation, the appropriate procedures can be followed.
- Following the completion of the legislature's work, the governor will take action.
- A final optional step might be for the Court of Appeals to pass on the constitutionality of the resulting law as part of a suit brought before the court on the part of a citizen who feels aggrieved by it. If the act dealt with a school matter, the role players for judges might include a principal among their number.
- As in any simulation, it is not necessary to adhere to every formality and procedure of the real world. The objective is to better understand and be able to apply a knowledge of the main features of the law-making process of a state legislature. In general the teacher will orchestrate the simulation and provide information and guidance as deemed necessary.

- The teacher may want to instruct the class in selected aspects of parliamentary procedure including motions, amending, voting, and the functioning of a committee of the whole.

- To the extent possible, additional resource materials should be made available and students should be encouraged to research questions on their own. Useful resources include:

  - Berle, Peter A. A. *Does the Citizen Stand A Chance? Politics of a State Legislature: New York.* Woodbury, N.Y. Barron's. 1974. 131 pp.

  - *Legislative Manual.* Note: A copy of this is available in every school office or library, courtesy of a member of the State Legislature. It contains the State Constitution.

  - *New York Red Book.* Albany. Williams Press.

  - *New York State Constitution.* Available from the Office of the Secretary of State, New York State Department of State, Albany, N.Y. at 50¢ per copy.

  - Stelzer, Leigh and Riedel, James A. *Capitol Goods: The New York State Legislature at Work.* Albany. Graduate School of Public Affairs, State University of New York at Albany. 1974. 154 pp.

  - Zimmerman, Joseph P. *State and Local Government.* New York. Barnes and Noble. 1970. 347 pp.

## THE LEGISLATIVE PROCESS — STATE GOVERNMENT

> *"The legislative power of this state shall be vested in the senate and assembly."* (New York State Constitution, Article III, Section 1)
>
> *"A majority of each house shall constitute a quorum to do business. Each house shall determine the rules of its own proceedings, and be the judge of the elections, returns and qualifications of its own members; shall choose its own officers; and the senate shall choose a temporary president and the assembly shall choose a speaker."* (Article III, Section 9)
>
> *"Each house of the legislature shall keep a journal of its proceedings, and publish the same... ."* (Article III, Section 10)

Each time a legislature begins a new session, it adopts the rules that will regulate legislative procedures—the processes by which a "bill" becomes a "law." (Usually a "house" merely adopts the rules of the previous session with a few revisions.) Most state legislatures follow similar procedures although there are differences. Some important parts of the overall process, e.g., the role of the governors, are found in the state constitution.

### 1. INTRODUCTION AND FIRST READING

- The bill is prepared.
  - Most bills are drafted by private individuals or organizations who get members to introduce them.
  - The Governor is one of the most important sources of information. He (she) gets various members to introduce his (her) bills.
  - Members of committees may introduce bills.
  - Revenue bills usually originate in the "lower" house, e.g., the Assembly, but in New York any bill may originate in either house.
- When a bill is introduced, it is read or its title read by a clerk. This is the "first reading."

### 2. REFERENCE

- Each bill is referred to a committee by the house leadership, e.g., the Speaker of the Assembly or the Majority Leader of the Senate.
- Responsibility to decide which committee is the appropriate one to handle a bill (the power of "reference") is an important power over legislation, exercised by the majority party leader in that House.

### 3. COMMITTEE STAGE

- Each committee is headed by a chairperson who was appointed by the leader of the house. Committee chairpersons are often very loyal to the leader who appointed them.
- From among the bills referred to a committee, the committee chairperson selects those to be considered by the committee. He/she is quite apt to be influenced in his/her choices by the leader of the house.
- Committee functions:
  - Examine the details of the bill
  - Determine underlying facts
  - Hold public hearings on important bills
  - Consider bills in private
  - Report conclusions and make recommendations to the full house
- Committee recommendations:
  - That the bill should be passed
  - That the bill be passed with amendments
  - That a substitute bill be passed
  - That the bill be postponed indefinitely

(This last step is sometimes called the power to "pigeon-hole" a bill. The term comes from the little compartments in old-fashioned roll-top desks where a bill could be placed and forgotten.)

### 4. DEBATE ON THE FLOOR AND SECOND READING

- When a bill is reported out by a committee, the bill is placed on the calendar of bills to be considered by the house. Copies of the bill are usually distributed to each legislator.
- When a bill's turn comes, it is given a second reading. In the case of a long bill, only section titles are read.
- Amendments may be moved, debated, and passed as the various sections are considered. Often this action takes place in a "committee of the whole" which operates by less formal procedures.
- Decisions are reached by voting.

### 5. ENGROSSMENT

- A new copy of the bill with any changes is now printed. It is placed on the calendar for a third reading, and placed on the desks of the legislators.

### 6. THIRD READING AND PASSAGE

- The third reading is usually a formality.
- Usually amendments are not permitted.
- A favorable vote after the third reading means the bill has "passed."

### 7. ACTION IN THE OTHER HOUSE

- All state legislatures except one are "bicameral," which means they have two houses. Nebraska is the only state with a "unicameral" (one house) legislature.
- Once the second house receives a bill passed by the other house the whole legislative process is repeated.
- If the second house passes the bill with amendments, the bill is returned to the first house for its concurrence. If there is no concurrence, a conference is set up involving some members of each house to work out a compromise. The bill must be passed in identical form by both houses.

### 8. EXECUTIVE ACTION

- In every state but one (North Carolina) the Governor possesses the "veto" power. By refusing to sign a bill he prevents it from becoming law.
- In New York State:
    - The Governor returns a vetoed bill to the house of origin with his objections to the bill.
    - Two-thirds vote of both houses may override a veto.
    - The Governor has 10 days to consider a bill. If he does not sign the bill during this time, it becomes a law without his signature.
    - When the legislature passes a bill and then adjourns, the Governor has 30 days in which to consider the bill. If he takes no action in that time the bill is lost in a "pocket veto."
    - The Governor can veto parts of an appropriations bill while signing other parts into law. (Not even the President has such power, for an "item veto.")

VOCABULARY OF LEGISLATIVE PROCESS:

- act
- amend
- bicameral
- bill
- committee
- committee of the whole
- common law
- conference
- debate
- enact
- engrossment
- introducing a bill
- item veto
- killed (or lost)
- legislative
- legislator
- legislature
- logrolling
- lower house
- majority
- majority leader
- override
- pigeon-hole
- pocket veto
- public hearing
- quorum
- reading
- reference
- report a bill out
- rider
- speaker
- statute
- upper house
- veto

### "THE SPEAKER

"The Speaker is the leader of a legislative body. He runs the place. ...

"The Speaker is generally master of his own house. He can frequently exert absolute control over what bills are considered and later acted upon favorably by the body he leads. ...

"The Speaker is a member of the majority party, and is selected by the legislators of that party. ...

"When the members of a party caucus decide to adopt a unit rule, they agree to be bound with respect to any issue (such as the selection of a speaker) by a vote of a majority of the members of that party. If a house is almost evenly divided between majority and minority (76 to 74, for example), an Assemblyman can become Speaker with the support of just over half the majority or thirty-eight members. ...

"A Speaker has close to absolute control in his house, and can determine virtually single-handedly what the fate of any particular legislation will be. There are a number of ways he can insure this result, the first of which is 'persuading' a majority of the members as to the merits of his position. Bona fide arguments on the merits are undoubtedly a weapon in his arsenal. There are others, however, of which the public is less aware. ...

"In most states, the Speaker picks committee chairmen and some other leadership posts such as that of majority leader, whip, and deputy majority leader. ...

"The allocation of staff positions can be critical. ...

"When reapportionment is in the offing, and he is in control of the map-making process he can discipline members by threatening to reapportion them out of existence. ...

"The Speaker can, through instructions to his committee chairman, often have an absolute say over what is reported out for floor action. ...

"Even if a bill is reported out of committee, the Speaker can control when, and even whether it will appear on the agenda for legislative action by the body as a whole. ...

"If a bill does find its way on the calendar which the Speaker would not like to see brought to a vote, he may, under the rules in many states, 'star' the bill. This means that the bill is withheld from consideration and can not be considered until the star is removed. In many states, including New York, the Speaker can 'star' any bill on the calendar and thereby exercise a veto over any legislative committee or any member. ...

"The Speaker can use his procedural powers not only to prevent passage of legislation but to see that it is enacted as well. In New York, a member's vote is counted in the affirmative unless the legislator raises his hand when the roll call is taken. ...

### "THE GOVERNOR AS LAW MAKER

"Under all state constitutions, the governor is assigned a key role in the law making process. As defined by the constitution, no bill can become law unless the Governor signs it. ...

"In most states, the constitution assigns an affirmative role to the executive branch of government. The Governor does more than simply block legislation he disapproves of. Usually the Governor is responsible for proposing a budget to the legislature. Here he, and he alone, supplies the initiative. In submitting his budget, he tells the legislature how much money he wants and how he wants to spend it. If there is not enough money in the state treasury to pay for his programs, or if state income is not expected to cover the costs anticipated for the coming year, it is up to the Governor to propose taxes necessary to supply needed monies to keep the state functioning. ...

"In New York, initiative in money matters is vested in the executive chamber. ...

(From Does the Citizen Stand a Chance? by Peter Berle. Barrons, Woodbury, New York. 1974. pp. 14-21; 35-43.)

"In New York, while the Governor proposes a budget and thus initiates the legislative process, he does not have the veto power over appropriations bills which he has with respect to all other pieces of legislation. ...

"In every legislative session some of the most significant bills considered are those introduced by legislators at the request of the Governor's staff as part of the Governor's legislative program. The bills are drafted in the Governor's office or within the departments of his administration. The Governor arranges for the introduction of his programs and works to secure votes to insure passage. ...

"In drafting his program legislation, the Governor has advantages which can never be matched by individual legislators or even the legislative leadership. The entire expertise of any administrative agency, can be put to work on a problem. ...

"By agreeing to sign certain bills the Speaker may be interested in, or by threatening to veto others, the Governor has leverage which he may use if he is unable to convince the Speaker to go along with him on the merits. Thus, the first weapon in the Governor's legislative arsenal is his ability to horsetrade with legislative leadership. ...

"It can mean a great deal to the legisator to be on the Governor's 'team.' The Assemblyman may sponsor legislation implementing a popular program or be the man the Governor takes with him when he goes to some particular area and holds a press conference. Such exposure can be decisive in a future election or in a bid for higher office. ...

"The Governor may tell the county leader that a legislator's support is essential if the leader's nominee for some political job is to be accepted. ...

"The leader may then be persuaded to threaten a legislator with a primary unless he cooperates with the Governor. ...

"The Governor's dispensation of patronage affords unequalled leverage in the legislative process. Every year he appoints hundreds of people to various state commissions, agencies, boards or departments. He also appoints some judges. He can have influence over the hiring of countless non-civil service personnel to fill various jobs around the state. ...

"...the Governor may be able to manipulate the procedure to make the legislature work for him. In the State of New York, the Constitution provides that a bill may not be considered by the legislature unless it has been printed and on the individual Assemblymen's desk for three days. In theory, this permits every member of the legislature to read bills he will be voting on and thus cast an informed vote. This three-day waiting requirement can be circumvented by the Governor through the issuance of a 'message of special necessity.' Using this device, the Governor can call upon the legislature to vote on legislation at any time. By eliminating the three-day waiting period, votes can be called on bills which have not been studied, publicized or in some instances even read. In New York, the Governor's program bills are often held until the closing hours of the session. They are then submitted to and reported out of the Rules Committee through prior arrangement with the Speaker. Called immediately to the floor upon the utilization of the 'message of special necessity,' the bills are passed and few members of the legislature have had a chance to analyze or even read them. ...

"Thus in New York, the 'message of special necessity' permits the Governor to put the legislative machinery in motion and to secure passage of legislation before the ramifications of it have been fully understood. While the Constitution speaks in terms of 'necessity,' that condition can exist upon the declaration of the executive. ...

"The conventional wisdom teaches that the executive and legislative branches of government are equal and thus balance one another. Within the states, this is rarely the case." ...

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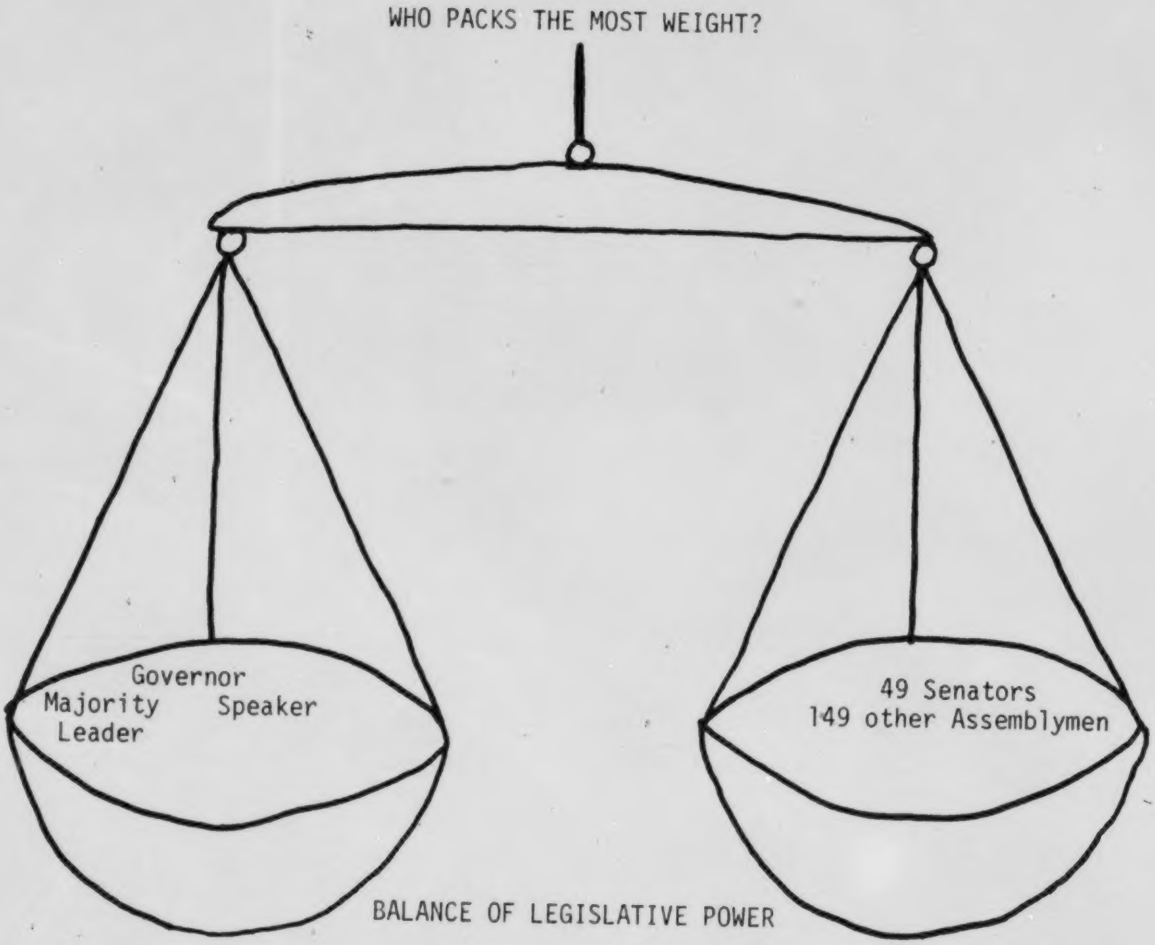


- Project a transparency of this cartoon and ask students relevant questions including the following:
  - What is the main point to the cartoon?
  - Explain how and why the Governor and the leaders of the two houses carry so much weight?
  - How does this cartoon reflect interaction among separate branches?
  - What are the legislative powers of the Governor?

# B POWERS AND RESTRAINTS: SOURCE, NATURE, CHANGE

## Operational Definitions

Power is the ability to compel action or maintain and effect an outcome. It is legitimized by the consent of the people. In a democracy, power can be defined as authority only when it is perceived as just and proper.

Restraints are established by the people through the Constitution, customs and value systems to insure that the actions of governments are responsible and responsive.

## Knowledge Objectives

1. *to discover the source (base foundation) of powers and restraints in a democratic society.*
2. *to identify the Constitutional grants of and limitations on governmental power.*
3. *to identify the unwritten grants and limitations of power and accruals*
4. *to understand the formal power structure and the functional influence of new conditions*
5. *to understand the informal power structure and the functional influence of new conditions*

## Skill Objectives

- *to identify the issues involved and to recognize possible conflict among values.*
- *to perceive relationships among social problems and to generate sound proposals for their solutions.*
- *to read verbal and visual cues, in terms of identification, relationship analysis and application.*
- *to weigh alternatives and consequences carefully before making a decision.*

## Activities to Develop the Knowledge Objectives

### Knowledge Objective 1

*to discover the source (base foundation) of powers and restraints in a democratic society.*

**Activity 1**

- Have a few students deliberately break the classroom rules and procedures and ignore the infractions until others in class begin to object. Discuss the need for rules and order.
- Have students make a script and tape it about "The Day There Were No School Rules." Have class listen to it and make a list of all the problems shown to occur. Would they want to be in that atmosphere? What problems do they feel would occur? Is it possible to have order without specific rules?

Related Understandings for these activities:

Grade 7: GOVERNMENT IS AN ORGANIZATION FORMED TO PERFORM SERVICES FOR PEOPLE FOR WHICH THEY HAVE A COMMON NEED.

Understandings already introduced at lower grades:

Grade 1: THERE ARE CERTAIN RULES AND LAWS WHICH MUST BE OBSERVED FOR THE COMMON GOOD.

Grade 2: LOCAL GOVERNMENTS PERFORM MANY NEEDED SERVICES.

- The class may then participate in a game called "The Circle Game."
  - Hand out a blank piece of paper and pencil to each student and tell them they are going to play "The Circle Game."
  - Tell students to begin.
  - When students ask how to play the game, raise questions concerning why they think such information is necessary, why rules are needed. Let students propose rules to play the game.
  - Have the class play the game and note the degree to which the devised rules either facilitated, restricted, or regulated their performance, or failed to do so.
  - At the conclusion of this part of the activity, the students should be able to identify or explain the source of the rules (themselves) and the major purpose of the rules (to be able to play the game).

## Activity 2

*"Records of Kings District * Minutes of Meeting of Inhabitants of King's District held at the House of William Warner, containing Resolution recommending that the Colonies be independent of Great Britian.*

*"At a meeting of the Inhabitants of Kings District in the County of Albany legally (called) by the Committee of Safety at the House of William Warner, Innkeeper, in (the Provincial) District. On Monday the 24th of June 1776 for the purpose of electing — delegates to represent Albany County in (the) Provintial (sic) Congress - - -*

*"Voted first that Wm. Daniel Buck be moderator of this meeting.*

*"Second, that the present Committee's Clerk be Clerk of this meeting.*

*"Thirdly, that the District Books be delivered to the care of the Committee Clerk untill (sic) the next District Meeting -*

*"Fourthly voted that a Committee be chosen by this Meeting for the purpose of drawing up instructions for a new form of government to be introduced by the Provincial Delegates -*

*"The question being put whether the Provincial district chose to have the United American Colonies Independent of Great Britian.*

*"Voted unanimously in Affirmation -*

*"Sixthly, Voted that Messrs. William B. Whiting - Asa Waterman - Philip Frisler - Morton Brebe - Elisha Pratt - Captin Ballding - Daniel Bucher - Elizah Bauftreich - Gideon King - Jarvis M——, Samuel Johnson - John Gillit - Lieut. Herrecke ——— ——— - John Wadsreanth - Samuel Baley ——— be a committee to draw up instructions for the preparation of (a new form of government.)"*

*Taken from photostat of original manuscript of records of Town of Canaan, N.Y. Canaan is in Columbia County, near the Massachusetts border. Some words and names are illegible. Names as transcribed in this quote may be misspelled.

- In order to illustrate how powers and restraints originate with the people, a simulation may be staged of the meeting of the committee to draw up instructions for the preparation of a new form of government.

  In the discussions, the group should include the following points:

  - provision must be made for "keeping the peace," or "law and order." (What do these phrases mean?)
  - some provision for defense would be needed, since war between Great Britain and the colonies had been waged for a year (reference to the seizure of Fort Ticonderoga, the British occupation of New York City, etc., will help students sense the involvement of New York.)
  - this was their chance to keep or to change the kinds of powers and restraints which they had had under British rule. Consider property, women's rights, maintenance of roads and bridges, slavery, (there were many slaveholders in New York at that time) and other issues that would be important in a New York frontier community.

- Students may then role-play the meeting in the cabin of the Mayflower (1620).

  For the Mayflower Compact, for example:

  - Have students read a textbook excerpt or use other information to learn the circumstances that created the need for the Mayflower Compact.
  - Select one student to play the role of William Bradford, who should then call for suggestions for the content of the Compact.
  - All other class members debate. Debate should include each of the following points below.

    ..Order and direction that was necessary for their survival.
    ..They were on their own; no one had authority over them since this was not Virginia.
    ..The law of England should apply in all circumstances.
    ..The law should be made in consideration of the new circumstances in which they found themselves.

  - Have these "pilgrims" write their own "compact."
  - Have the students compare this newly created "compact" with the excerpt of the Mayflower document

    ..Similarities should be identified.
    ..Differences should be identified.

  - Have the students discuss the reasons for the similarities and the differences discovered.

> *"We, whose names are underwritten...do...covenant and combine ourselves together into a civil body politic, for our better ordering and preservation... . And by virtue hereof do enact, constitute, and frame,*

> *such just and equal law, ordinances, acts, institutions, and officers, from time to time, as shall be thought most meet and covenant for the general good of the colony; unto which we promise all due submission and obedience." --Mayflower Compact, 1620.*

- Distribute copies of the selection from the Declaration of Independence (1776). Compare the statements drafted by the students for the meeting in Canaan and the meeting on the Mayflower with the excerpts of the 1620 and 1776 documents, including purpose of each statement, source of powers given and the restraints established by the documents, and reasons for the distribution of power, or defining of a restraint. What important characteristics of a democratic society can be learned from this exercise?

> *"We hold these truths to be self evident, that all men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are life, liberty, and the pursuit of happiness. That to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed. That whenever any form of government becomes destructive of these ends, it is the right of the people to alter or to abolish it, and to institute new government, laying its foundation on such principles and organizing its powers in such form as to them shall seem most likely to effect their safety and happiness."*
> *--Declaration of Independence*

## Knowledge Objective 2

*to identify the Constitutional grants of and limitations on governmental power.*

**Activity 1:**

- The teacher may have the students examine a series of real or hypothetical newspaper headlines which reflects the exercise of such power at the national, state, and local level.

  Set up a chart which includes sample headlines and provides space for the student to write the Constitutional source.

Related Understandings for these activities:

Grade 7: THE ORGANIZATION OF THE NEW YORK STATE GOVERNMENT AS WELL AS THE UNITED STATES GOVERNMENT IS DESCRIBED IN A WRITTEN CONSTITUTION.

Grade 8: KNOWLEDGE OF THE CONSTITUTION OF THE UNITED STATES IS NEEDED AS A BASIC FOUNDATION FOR UNDERSTANDING THE FUNCTIONING OF THE FEDERAL GOVERNMENT.

- Select an example of an exercise of Federal power such as "The President Vetoes Strip Mining Bill."

  Introduce analysis of the headline through several questions.

  - Does this headline reflect a proper exercise of power?
  - How can you determine this?

Understandings already introduced at lower grades:

Grade 5: THE PEOPLE OF THE UNITED STATES HAVE A WRITTEN CONSTITUTION WHICH, IN A GENERAL WAY, FURNISHES THE GUIDANCE AND PROCEDURES FOR ALL GOVERNMENTAL OFFICIALS.

OUR GOVERNMENT HAS THREE SEPARATE BRANCHES TO PERFORM THE MAJOR TASKS OF ANY GOVERNMENT.

- Have the students examine a copy of the Federal Constitution (readily available in most American history textbooks). The students should ultimately locate Article 1, Section 7 and the statement, "Every bill which shall have passed the House of Representatives and the Senate shall, before it becomes a law, be presented to the President of the United States; if he approves he shall sign it, but if not, he shall return it, with his objections, to the House in which it shall have originated... ." Thus the role of the President in the law-making process and specifically his power of veto will clearly be recognized as being constitutionally based.

- Select next an example of an exercise of State or local power such as the "Governor O.K.'s Hike in State Sales Tax" and proceed as above using first the Federal Constitution.

  - Having examined the Federal Constitution, the students should ultimately locate Amendment 10 and the statement "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States are reserved to the States respectively, or to the people." Thus the reserved powers of the States will clearly be recognized as being constitutionally based.

  - The student may then examine the New York State Constitution. Since this Constitution is generally not available in multiple classroom copies, and is long and complex, it is suggested that the teacher, having explained and demonstrated these circumstances, reproduce and if necessary paraphrase for the class those sections of the State Constitution that are applicable. In the example being used, "The Governor O.K.'s Hike in the State Sales Tax" all students should ultimately locate Article 4, Section 7 and the statement "Every bill which shall have passed the senate and assembly shall, before it becomes law, be presented to the governor; if he approves, he shall sign it... ." Thus the Governor's role in the state law-making process will clearly be recognized as being Constitutionally based. In addition, all students should ultimately locate Article 3, Section 22 and the statement "Every law which imposes, continues, or revives a tax shall distinctly state the tax and the object to which it is to be applied, and it shall not be sufficient to refer to any other law to fix such tax or object." Thus, the state's authority to tax will clearly be recognized as being constitutionally based.

. The teacher and students may develop as many additional "headline" models as they feel necessary to illustrate the constitutional and legal grants and limitations of government power.

. The students may locate current newspaper headlines that illustrate the constitutional and legal grants and limitations of government power.

| HEADLINE | SOURCE OF POWER | TEACHER REFERENCE |
|---|---|---|
| - "The President Vetoes Strip Mining Bill" | — | - Federal Constitution:<br>Article 1, Section 7 |
| - "Congress Pass New Trade Bill | — | - Federal Constitution:<br>Article 1, Section 8 |
| - "Supreme Court Rules on Busing" | — | - Federal Constitution:<br>Article 3, Section 2 |
| - "Governor O.K.'s Hike in State Sales Tax" | — | - Federal Constitution:<br>Amendment 10<br>NYS Constitution:<br>Article 4, Section 7<br>Article 3, Section 22 |
| - "The Senate and Assembly Vote More Money for Schools" | — | - Federal Constitution:<br>Amendment 10<br>NYS Constitution:<br>Article 3, Section 13 |
| - "Family Court Judge Decides Custody Case" | — | - Federal Constitution:<br>Amendment 10<br>NYS Constitution:<br>Article 6, Section 13 |
| - "Board of Regents Recommends More Civics Education in the Schools" | — | - Federal Constitution:<br>Amendment 10<br>NYS Constitution:<br>Article 11, Section 2 |
| - "Councilmen Fight Mayor's Planned Labor Cut-Backs" | — | - Federal Constitution:<br>Amendment 10<br>NYS Constitution:<br>Article 8, Section 12 |
| - "Town Supervisor Balks at County's Solid Waste Plans" | — | - Federal Constitution:<br>Amendment 10<br>NYS Constitution:<br>Articles 8 and 9 |
| - "School Board Calls for Property Tax Increase" | — | - Federal Constitution:<br>Amendment 10<br>NYS Constitution:<br>Article 8, Sections 8, 9, and 10 |

Knowledge Objective 3

*to identify the unwritten grants and limitations of power and accruals.*

**Activity 1**

Below are a series of eight cartoons.

- With each have students individually or in small groups:
  - identify the participants, action and read the caption
  - refer to the data identified and discuss the interrelationship between and among the parts shown or depicted
  - explain the meaning of the cartoon and specifically identify whether the action depicted is an exercise of power or authority and give a justification for his/her choice
  - identify the source of that power, i.e., written, unwritten, accrued, or usurped.

Related Understandings for these activities:

Grade 8: THE BODY OF PROCEDURES WHICH EVOLVED TO MAKE THE MACHINERY OF THE FEDERAL GOVERNMENT OPERATE MORE SMOOTHLY BECAME KNOWN AS OUR "UNWRITTEN CONSTITUTION."

Understandings already introduced at lower grades:

Grade 1: THERE ARE CERTAIN RULES AND LAWS WHICH MUST BE OBSERVED FOR THE COMMON GOOD.

Grade 3: GOOD CITIZENS RESPECT THE RIGHTS OF OTHERS.

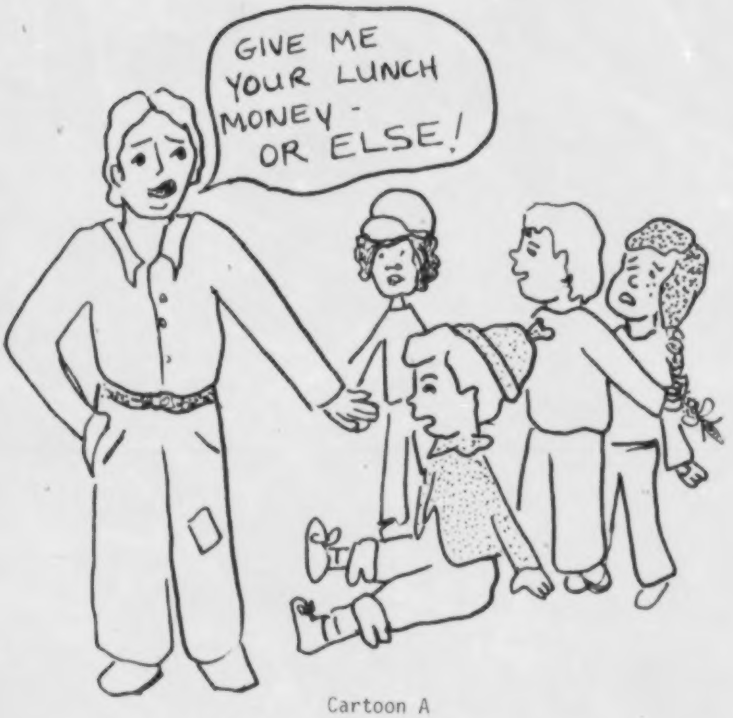
Grade 4: AMERICAN FREEDOMS, WHICH ARE EITHER SOCIAL, RELIGIOUS, ECONOMIC, AND/OR POLITICAL IN NATURE, HAVE EVOLVED THROUGH THE YEARS AS WE HAVE WORKED TOWARD TRUE EQUALITY AMONG ALL PEOPLE.

The decisions of the groups or individuals should be recorded in the following way:

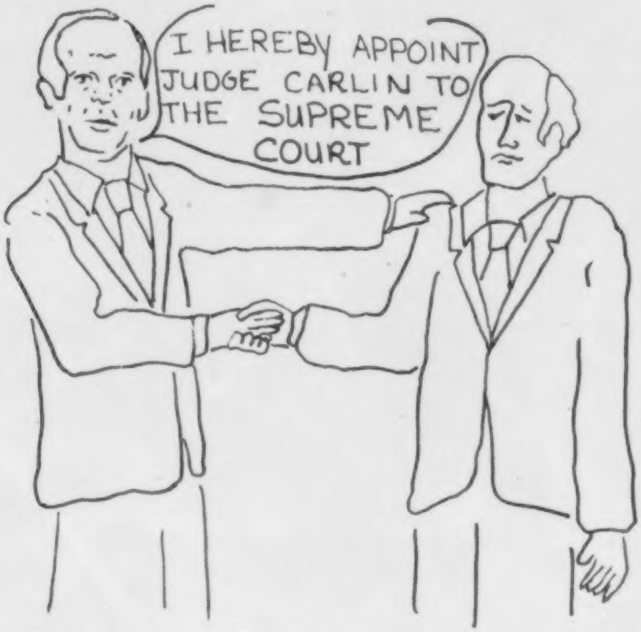
Power or Authority ______________________________
Reason(s) for designation ________________________
______________________________________________
______________________________________________

Source(s) of Power or Authority (written, unwritten, accrued, usurped) ______________________________
______________________________________________
______________________________________________

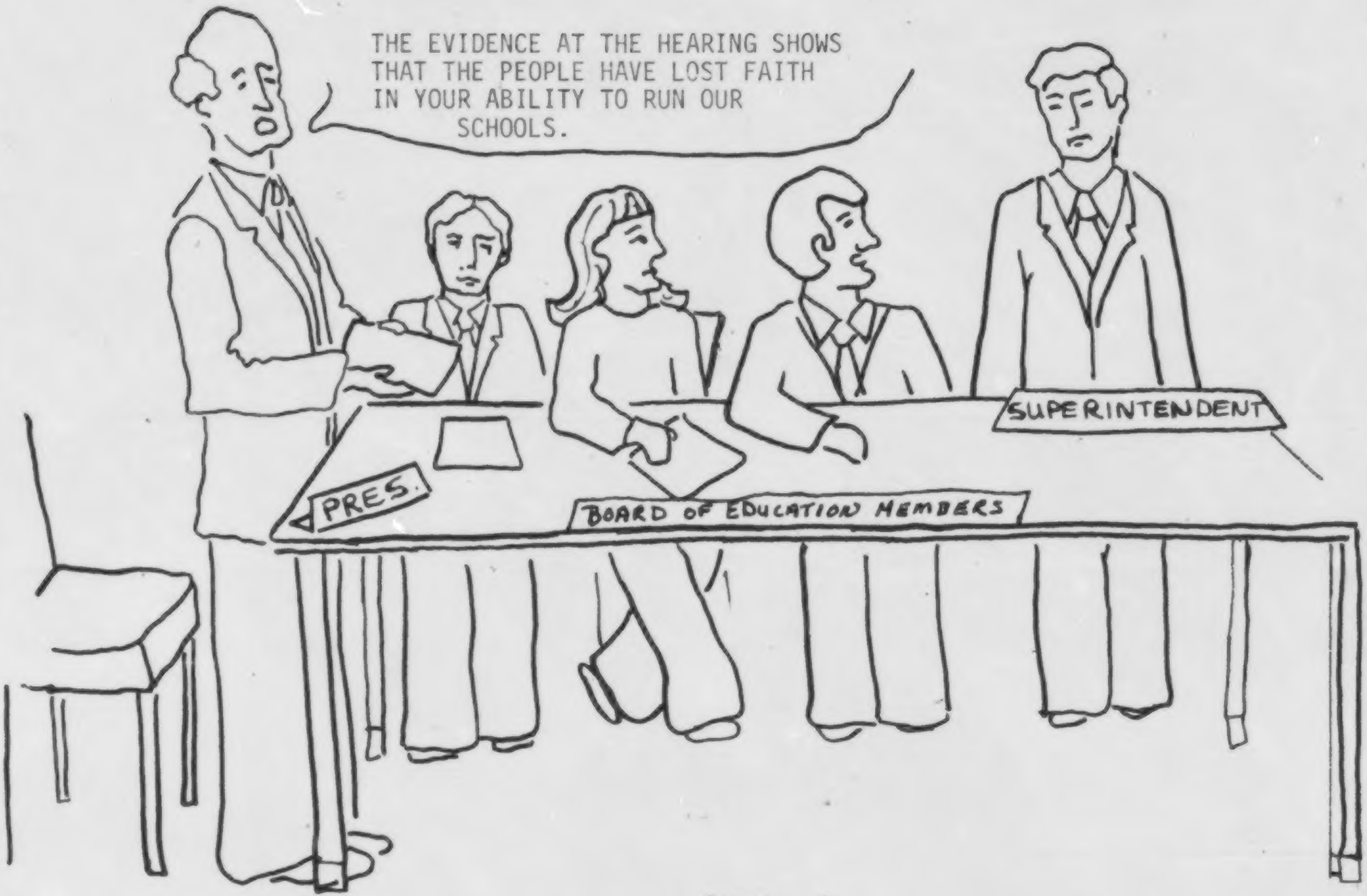
. Have the class repeat the activity using their own cartoons, headlines and/or photographs and discuss in each the power base and whether or not it is a legitimate exercise of power (authority). With some of the examples shown in this exercise and those presented by the class the teacher should recognize that the values concerning the traditions and/or accrued examples cited will reflect varying degrees of acceptance or rejection dependent on whether the situation is perceived as just or good, by individual students. Consequently, how well the student justifies his/her choice is of utmost importance.


GIVE ME YOUR LUNCH MONEY - OR ELSE!

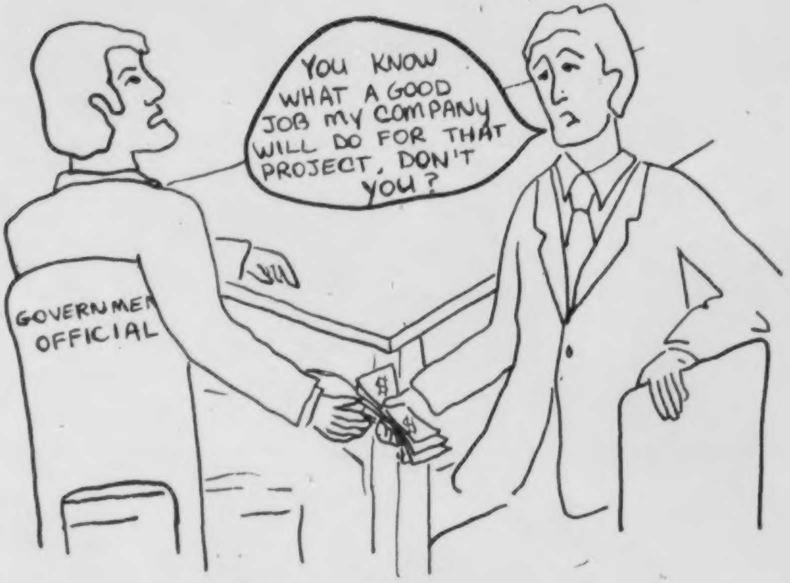
Cartoon A


I HEREBY APPOINT JUDGE CARLIN TO THE SUPREME COURT

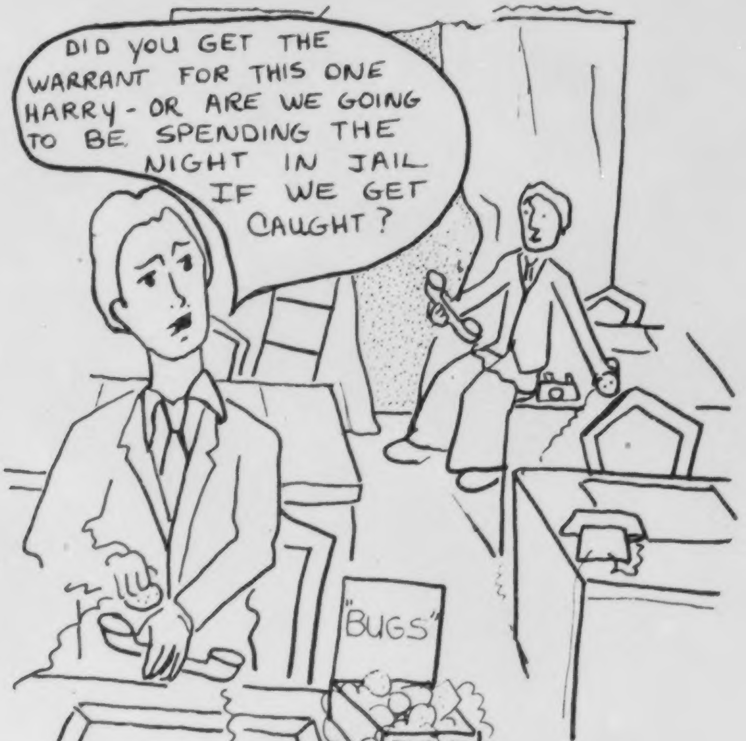
The President Cartoon B


THE EVIDENCE AT THE HEARING SHOWS THAT THE PEOPLE HAVE LOST FAITH IN YOUR ABILITY TO RUN OUR SCHOOLS.
PRES.
BOARD OF EDUCATION MEMBERS
SUPERINTENDENT

Cartoon C

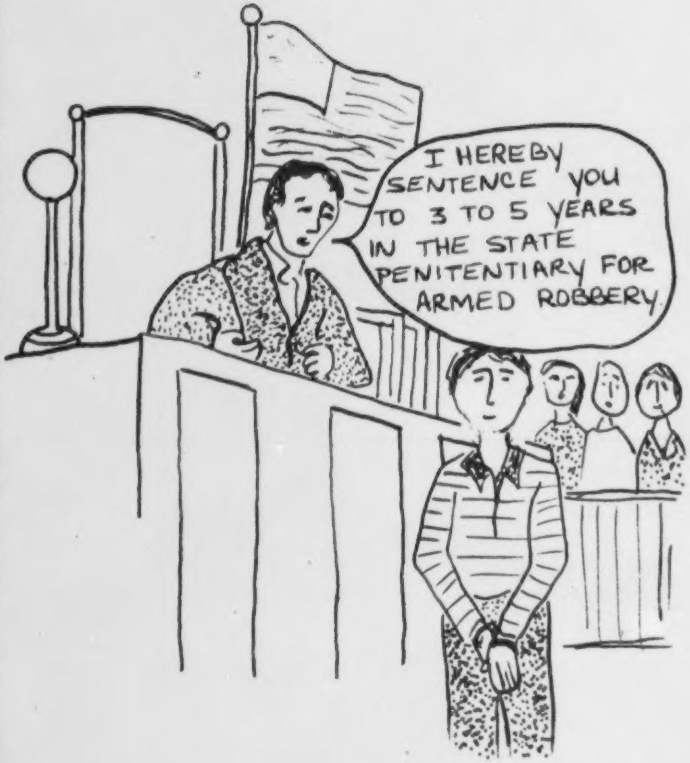

YOU KNOW WHAT A GOOD JOB MY COMPANY WILL DO FOR THAT PROJECT, DON'T YOU?
GOVERNMENT OFFICIAL
$
$

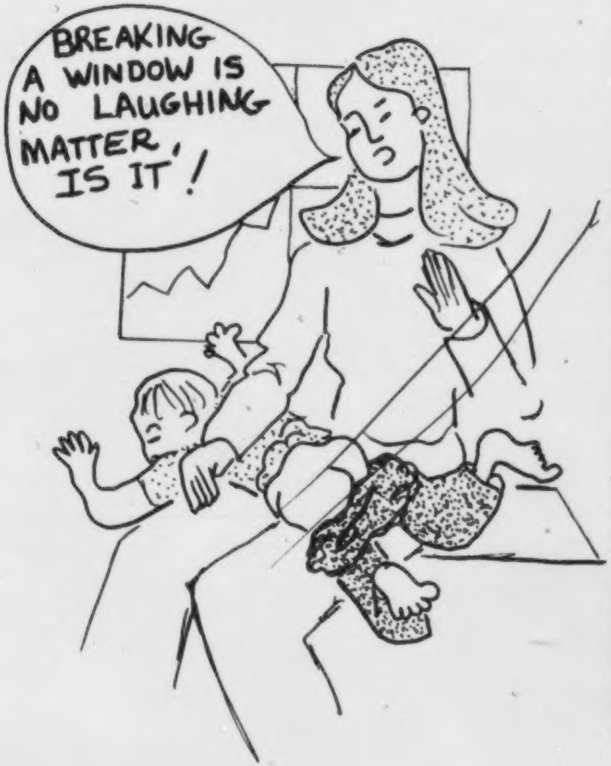
Cartoon D


DID YOU GET THE WARRANT FOR THIS ONE HARRY - OR ARE WE GOING TO BE SPENDING THE NIGHT IN JAIL IF WE GET CAUGHT?
"BUGS"
F.B.I

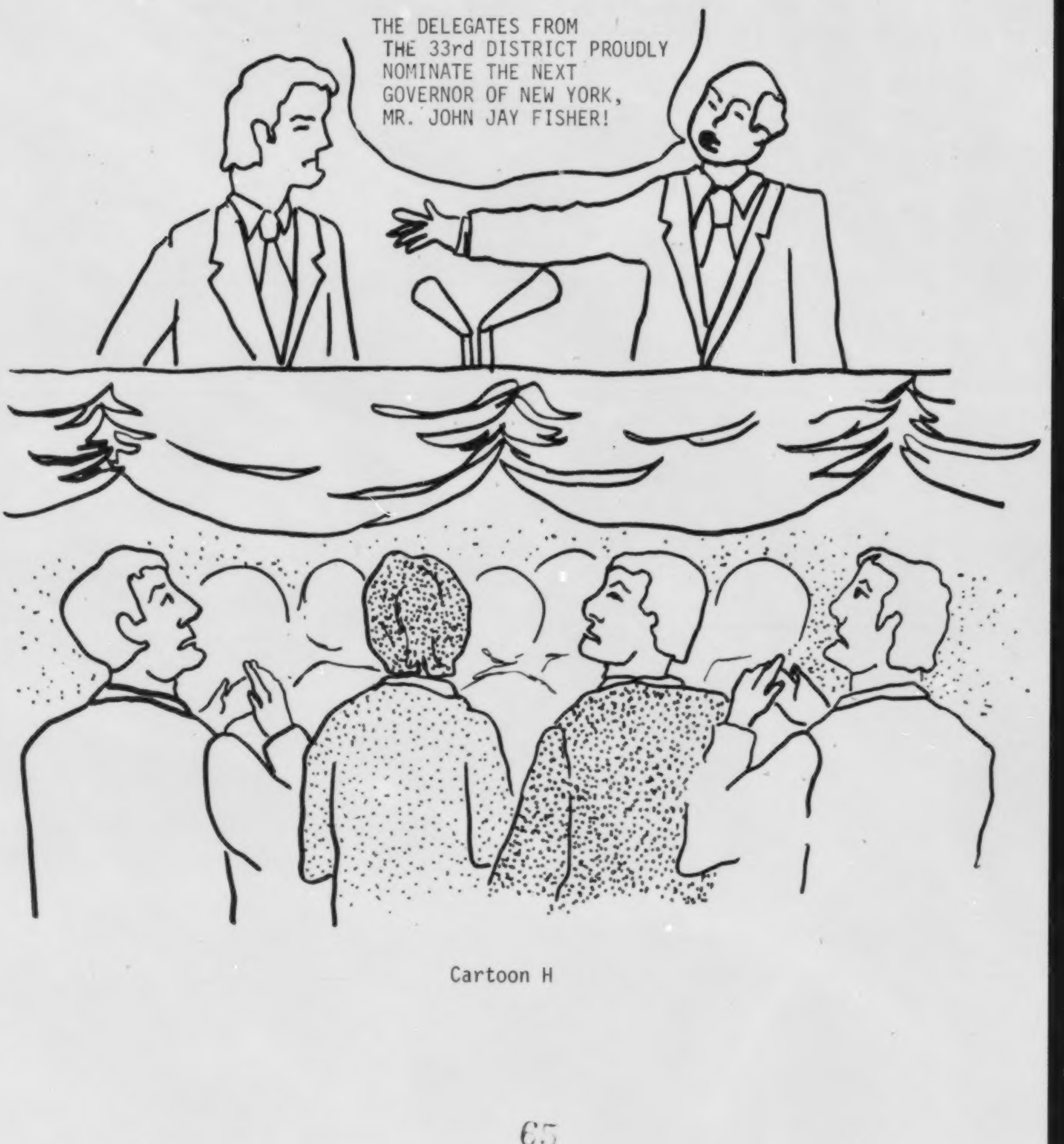
Cartoon E

Cartoon F


I HEREBY SENTENCE YOU TO 3 TO 5 YEARS IN THE STATE PENITENTIARY FOR ARMED ROBBERY.


BREAKING A WINDOW IS NO LAUGHING MATTER, IS IT!

Cartoon G


THE DELEGATES FROM THE 33rd DISTRICT PROUDLY NOMINATE THE NEXT GOVERNOR OF NEW YORK, MR. JOHN JAY FISHER!

Cartoon H

## Activity 2

Note: There have been occasions when one branch or one level of the government has exerted power in contradiction of the stand taken by another branch or level of the government. The question can be raised, whether power is assumed unjustly or whether the end justifies the means.

## Case Summary: The State of Georgia and the Cherokees

- The Cherokees living within the State of Georgia were recognized through a series of treaties with the United States as a nation subject to their own laws.
- In 1829 gold was discovered on the Indian lands.
- A Georgia law pronounced all laws of the Cherokee Nation to be null and void (of no effect) as of June 1, 1830.
- A Georgia law passed in 1830 required any white residents on Cherokee lands to secure a license and take an oath of allegiance to the State. Two missionaries, Samuel Worcester and Elizur Butler refused to obey the law and were convicted and sentenced to four years of hard labor. Worcester appealed his conviction to the Supreme Court.
- When the decision of Chief Justice Marshall (see excerpt) rejecting the right of the State of Georgia was made known, Andrew Jackson is reputed to have said: "John Marshall has made his decision, now let him enforce it."

## Procedures

In using a moral dilemma procedure to deal with this case the following steps are suggested:

- Present the case summary for students to read. Review the details to determine that it is understood.
- Ask for each instance in which a "right" or "wrong" type of decision had to be made, and have the decision-maker identified.
- Review previous discussions of the granting and assuming of power.
- Ask for an identification of a dilemma that involves in this case a governmental assumption of power.

- Give each student one of the following continuums, depending upon the dilemma selected. The student should mark her/his position with an "X" and write her/his reasons for this stand under the continuum.

| | |
|---|---|
| Georgia completely justified in claiming jurisdiction over Cherokee lands | Georgia completely unjustified in claiming jurisdiction over Cherokee lands |

or

| | |
|---|---|
| Jackson justified in refusing to force Georgia to accept the Supreme Court decision | Jackson unjustified in refusing to force Georgia to accept the Supreme Court decision |

- After students have met in small groups with others holding a like position, distribute copies of the reading selections below. The groups may then discuss the impact of the selections, and draw upon them to support their positions, and to refute the opposition's stance.
- In class discussion, have each group present its strongest reasons for its position.
- Have each student again mark her/his position on the continuum and state reasons for movement or nonmovement on the issue.
- Discuss whether an unjust seizure of power has taken place.

Probe questions to help define reasons for positions taken:

- Why would the Cherokees insist upon living under their own laws, rather than those of the State of Georgia?
- Why would Andrew Jackson refuse to support the decision of the Supreme Court under Chief Justice Marshall?
- Why would white people in Georgia want the Cherokees to accept their laws?

### Niles Register, June 20, 1829 - Quoted from the Savannah Mercury - The Creek Indians - pp. 274-75

*"At a council of the Chiefs,...of the Creek nation, the talk of the president (Jackson) was communicated by the agent. After a profound silence...Specled (sic) Snake a warrior whose head was whitened with frosts of more than a hundred winters...arose and spoke...*

*"'Brothers! We have heard the talk of our great father; it is very kind, he says he loves his red children.*

*"'Brothers! I have listened to many talks from our great father. When he first came over the wide waters, he was but a little man, and wore a red coat. Our chiefs met him on the banks of the Savannah, and smoked with him the pipe of peace. He was then very little. His legs were cramped by sitting long in his big boat and he begged for a little land to light his fire on. ...*

*"The Muskogees gave the white man land, and kindled him a fire, that he might warm himself... . But when the white man had warmed himself before the Indian's fire, and filled himself with their hominy, he became very large. With a step be bestrode the mountains and his feet covered the plains and the vallies. His hands grasped the eastern and western sea, and his head rested on the moon. Then he became our Great Father. He loved his red children, and he said, 'Get a little further, lest I tread on thee.' ...*

*"Brothers! I have listened to a great many talks from our great father. But they always began and ended in this — 'Get a little further; you are too near me.' ...*

*'Brothers! When our great father made us a talk on a former occasion he also said, It (the land) shall be yours forever.' I have listened to his present talk. He says the land where you now live is not yours. Go beyond the Mississippi, there is game; and you may remain while the grass grows or the water runs. Brothers! will not our great father come there also? ...*

*"Brothers! I have done."*

*********************

### Seventh Annual Message (of Andrew Jackson) - Washington, December 7, 1835.

*"Fellow Citizens of the Senate and House of Representatives:*

*... "The plan of removing the aboriginal people who yet remain within the settled portions of the United States to the country west of the Mississippi River...was adopted on the most mature consideration of the condition of this race, and ought to be persisted in till the object is accomplished...and as fast as their consent can be obtained. All preceding experiments for the improvement of the Indians have failed. It seems now to be an established fact that they can not live in contact with a civilized community and prosper. ...(N)o one can doubt the moral duty of the Government of the United States to protect and if possible to preserve and perpetuate the scattered remanants of this race which are left within our borders. ...(A)n extensive region in the West has been assigned for their permanent residence(,)...divided into districts and allotted among them. ...*

*"The plan for their removal and reestablishment is founded upon the knowledge we have gained of their character and habits, and has been dictated by a spirit of enlarged liberality. A territory exceeding in extent that relinquished has been granted to each tribe. Of its climate, fertility, and capacity to support an Indian population the representations are highly favorable. To these districts the Indians are removed at the expense of the United States, and with certain supplies of clothing, arms, ammunition, and other indispensable articles; they are also furnished...with provisions for the period of a year after their arrival at their new homes. In that time, from the nature of the country and of the products raised by them, they can subsist themselves by agricultural labor, if they choose to resort to that mode of life; if they do not they are upon the skirts of the great prairies, where countless herds of buffalo roam, and a short time suffices to adapt their own habits to the changes which a change of the animals destined for their food may require. Ample arrangements have also been made for the support of schools; in some instances*

(From U.S. President. A compiliation of the messages and papers of the presidents, 1789-1897. Published by authority of Congress by James D. Richardson. Washington. Government Printing Office, 1896-99. Volume VIII.)

*council houses and churches are to be erected, dwellings constructed for the chiefs, and mills for common use. Funds have been set apart for the maintenance of the poor; the most necessary mechanical arts have been introduced, and blacksmiths, gunsmiths, wheelwrights, millwrights, etc., are supported among them. ...(And) annuities are...paid, amounting in some instances to more than $30 for each individual of the tribe. And as a stimulus for exertion, it is now provided by law that 'in all cases of the appointment of interpreters or other persons employed for the benefit of the Indians a preference shall be given to persons of Indian descent, if such can be found who are properly qualified for the discharge of the duties.'*

*..."The pledge of the United States has been given by Congress that the country destined for the residence of this people shall be forever 'secured and guaranteed to them.' A country west of Missouri and Arkansas has been assigned to them, into which the white settlements are not to be pushed. ... A barrier has thus been raised for their protection against the encroachment of our citizens, and guarding the Indians as far as possible from those evils which have brought them to their present condition. ...*

********************

**January Term (of the United States Supreme Court) 1832 - Samuel A. Worcester, Plaintiff...v. The State of Georgia.**

*"Mr. Chief Justice MARSHALL delivered the opinion of the Court.*

*"The plaintiff is a citizen of the state of Vermont, condemned to hard labour for four years in the penitentiary of Georgia; under...an act which alleges to be repugnant (contrary) to the constitution, laws, and treaties of the United States. ...*

*"The indictment charges the plaintiff...and others, being white persons, with the offence of 'residing within the limits of the Cherokee nation without a license,' and 'without having taken the oath to support and defend the constitution and laws of the state of Georgia.' ...*

*"'And the said Samuel A. Worcester...says, that, on the 15th day of July in the year 1831, he was, and still is, a resident in the Cherokee nation;...that he is a citizen of the state of Vermont,...and that he entered the aforesaid Cherokee nation in the capacity of a duly authorised missionary of the American Board of Commissioners for Foreign Missions, under the authority of the president of the United States, and has not since been required by him to leave it: that he was, at the time of his arrest, engaged in preaching the gospel to the Cherokee Indians, and in translating the sacred scriptures into their language, with the permission and approval of the said Cherokee nation, and in accordance with the humane policy of the government of the United States for the civilization and improvement of the Indians;... . (S)everal treaties have, from time to time, been entered into between the United States and the Cherokee nation of Indians,...(12 treaties are listed in the plaintiff's statement) all which treaties have been duly ratified by the senate of the United States of America; and, by which treaties, the United States of America acknowledge the said Cherokee nation to be a sovereign nation, authorised to govern themselves, and all persons who have settled within their territory, free from any right of legislative interference by the several states composing the United States of America, in reference to acts done within their own territory; and, by which treaties, the whole of the territory now occupied by the Cherokee nation, on the east of the Mississippi, has been solemnly guarantied to them; all of which treaties are existing treaties at this day, and in full force. ...(T)he defendant (says he) is not amenable (responsible) to the laws of Georgia, nor to the jurisdiction of the courts of the said state; and that the laws of the state of Georgia, which...extend the laws of Georgia over the said territory, and persons inhabiting the same; and, in particular, the act...which...prevent(s) white persons from residing within that part of the chartered limits of Georgia occupied by the Cherokee Indians,...provide(s) a guard for the protection of the gold mines,...are repugnant to the aforesaid treaties; which, according to the constitution of the United States, compose a part of the supreme law of the land; and that these laws of Georgia are, therefore, unconstitutional, void, and of no effect;... .*

*"From the commencement of our government, congress has passed acts to regulate trade and intercourse with the Indians; which treat them as nations, respect their rights, and manifest a firm purpose to afford that protection which treaties stipulate. All these acts, and especially that of 1802, which is still in force, manifestly consider the several Indian nations as distinct political communities, having territorial boundaries, within which their authority is exclusive, and having a right to all the lands within those boundaries, which is not only acknowledged, but guarantied by the United States.*

"In 1819, congress passed an act for promoting those humane designs of civilizing the neighbouring Indians, which had long been cherished by the executive. It enacts, 'that, for the purpose of providing against the further decline and final extinction of the Indian tribes adjoining to the frontier settlements of the United States, and for introducing among them the habits and arts of civilization, the president of the United States shall be, and he is hereby authorised, in every case where he shall judge improvement in the habits and condition of such Indians practicable, and that the means of instruction can be introduced with their own consent, to employ capable persons, of good moral character, to instruct them in the mode of agriculture suited to their situation; and for teaching their children in reading, writing and arithmetic; and for performing such other duties as may be enjoined, according to such instructions and rules as the president may give and prescribe for the regulation of their conduct in the discharge of their duties.' ...

"The treaties and laws of the United States contemplate the Indian territory as completely separated from that of the states; and provide that all intercourse with them shall be carried on exclusively by the government of the union.

"Is this the rightful exercise of power, or is it usurpation?

"While these states were colonies, this power, in its utmost extent, was admitted to reside in the crown. When our revolutionary struggle commenced,...necessities of our situation produced a general conviction that those measures which concerned all, must be transacted by a body in which the representatives of all were assembled, and which could command the confidence of all: congress, therefore, was considered as invested with all the powers of war and peace, and congress dissolved our connexion with the mother country, and declared these United Colonies to be independent states. ...(C)ongress (had) the same powers of peace and war, in our relations with Indian nations, as with those of Europe.

"...(W)hen the (Articles of) (C)onfederation...gave the United States in congress assembled the sole and exclusive right of 'regulating the trade and managing all the affairs with the Indians, not members of any of the states: provided, that the legislative power of any state within its own limits be not infringed or violated.'

"The ambiguous phrases which follow the grant of power to the United States, were so construed by the states of North Carolina and Georgia as to annul the power itself. ... (O)ur existing constitution...confers on congress the powers of war and peace; of making treaties, and of regulating commerce with foreign nations, and among the several states, and with the Indian tribes. These powers comprehend all that is required for the regulation of our intercourse with the Indians. ...

"The Cherokee nation,...is a distinct community, occupying its own territory, with boundaries accurately described, in which the laws of Georgia can have no force, and which the citizens of Georgia have no right to enter, but with the assent of the Cherokees themselves, or in conformity with treaties, and with the acts of congress. The whole intercourse between the United States and this nation, is, by our constitution and laws, vested in the government of the United States.

"The act of the state of Georgia, under which the plaintiff in error was prosecuted, is consequently void, and the judgment a nullity. ...

"It is the opinion of this court that the judgment of the (Georgia) superior court... condemning Samuel A. Worcester to hard labour, in the penitentiary of the state of Georgia, for four years, was pronounced by that court under colour of a law which is void, as being repugnant to the constitution, treaties, and laws of the United States, and ought, therefore, to be reversed and annulled."

Knowledge Objectives 4 and 5

*to understand the formal power structure and the functional influence of new conditions.*

*to understand the informal power structure and the functional influence of new conditions.*

Related Understandings for these activities:

Grade 8: ALL AMERICAN CITIZENS, WOMEN AS WELL AS MEN, HAVE RESPONSIBILITIES AS WELL AS RIGHTS.

Understandings already introduced at lower grades:

Kindergarten: THE FAMILY IS THE BASIC UNIT OF OUR OWN AND MOST OTHER SOCIETIES.

Grade 1: MANY YEARS AGO, FAMILY LIFE WAS DIFFERENT IN OUR STATE.

**Activity 1**

- Have students examine the two Doonesbury cartoons by G.B. Trudeau, and identify the new social conditions represented by the cartoons. (See p. 66.)
- Chart the changes suggested by the cartoons showing how each has come into existence, for example:

| CHANGE | ENABLING ACTIONS OR CAUSAL FACTORS |
|---|---|
| - Nursery schools for children of working parents | - Churches and other community institutions - some government funding |
| - New careers for women | - Women's movement - industrial demands for more workers |

Note, that each of the causal factors or enabling actions can be expanded or debated.

- Classify each of the enabling actions/causal factors in terms of the "F" = formal power structure, i.e., governmental action, or "I" = informal power structure.
- Cartoons often exaggerate a condition or a point of view. In the case of Cartoon 2, the cartoonist has suggested a point of view on the part of Ms. Caucus, which many people feel is a threat to both our formal and our informal power structures.
  - Have students roleplay a scene in which children in the class tell parents what Ms. Caucus said to the girls in their "little chat." What threats might parents identify? Would everyone at home (grandparent; aunt or uncle; neighbors) agree about the threat? What arguments would each side put forward?

- Can Cartoon 1 be interpreted as presenting a controversial point of view? Try a second roleplay, with children discussing with their families, Ms. Caucus' happy cry in the fourth picture. Is this situation, that is, the woman getting paid for taking care of children a threat to the formal power structure? to the informal power structure?

- Some perceive the demands for non-sexist language as a threat to the power structure. Use selections from *Reviewing Curriculum for Sexism,** e.g., pp. 7-14, for discussion of the effect of language upon our existing ways of doing things.

## Activity 2

- Identify some groups and events which have brought about the changes discussed in activity 1. The list may include events from The Seneca Falls Convention, 1848, women's meetings in 1977, and organizations from the National Women's Suffrage Association (1868) to the National Organization of Women (1966).
  - Identify some leaders of the groups, past or present. The list may include Lucy Stone; Mary Lyon; Elizabeth Cady Stanton; Susan B. Anthony; Alice Paul; Carrie Chapman Catt; Betty Friedan; Gloria Steinem; Barbara Jordan; and Bella Abzug.
  - What problems have arisen due to these new conditions?
  - What other power groups with differing opinions on these topics exist today? (Phyllis Schlafly as a leader)
  - To whom have these informal power groups turned to find solutions to these problems? Why?

- A simulation of a woman's convention such as the Seneca Falls meeting can be used to show the influences for and against Woman's Rights in the 19th century. Include the part played in the women's rights movement by men such as John Mott; Frederic Douglass; William L. Garrison; Wendell Phillips; Henry Blackwell.
  - Discuss the similarities and differences in the methods used by the woman's rights groups of the 19th and 20th century.

## Activity 3

- Give students copies of the following proposed 27th Amendment (E.R.A.) to the United States Constitution passed in March, 1972:

> *"Section 1: Equality of Rights under the law shall not be denied or abridged by the United States or by any State on account of sex.*

---

*Albany, State Education Department, 1975.

"*Section 2:* *The Congress shall have the power to enforce by appropriate legislation, the provisions of the article.*

"*Section 3:* *This amendment shall take effect two years after the date of ratification."*

Discussion of the proposed amendment may include use of the following questions:

- What does the proposed amendment say (in your own words)?
- What changes in the formal power structure will take place, if any, if the proposed amendment is ratified? What changes in the informal power structure will take effect? Why does Section 3 provide for a two year delay between the time the proposed amendment is ratified and the date of its taking effect?
- What does Section 2 of the proposed amendment tell you about the role of the government in dealing with new social conditions?

Based on the ratification progress to date, have the class:

- Discuss the reasons for opposition to the proposed amendment. (Help here can be found in Fables & Facts, The Story of the Equal Rights Amendment in New York State, published by the League of Women Voters in New York State and available at 10¢ per copy or less in multiple copies.)
- Identify the forces influencing either ratification or rejection across the nation.
- Discuss the reasons why New York State adopted (or sought to adopt) a separate E.R.A. in its own Constitution.
- Assign students to develop a calendar of the progress of E.R.A. toward ratification.
- Follow the continuing ratification progress.

Have the class simulate a State legislative debate on the proposed E.R.A.

- The debate should be concluded by a vote to approve or reject the amendment.
- The students should analyze the result of their vote.

## Optional Case Study

As an additional example of the formal and informal structures which bring change, the following may be used as cases for individual or class research:

- Detention of Japanese on West Coast during World War II. (See: American Civilization in Historic Perspective, Part I. Albany. The State Education Department, 1970. pp. 120-150.)

# C RIGHTS AND RESPONSIBILITIES

## Operational Definition

Rights are the guarantees from external restraints on individual behavior. Freedom of behavior or of action is based on the power to exercise and have access to the protections embodied in our Constitutions. They are essential to insure justice and order through law in a democratic society.

Responsibility is the exercise of internal restraints upon individual and collective behavior within a society. It requires that each citizen be accountable for his own actions or failure to act and to respect the limits upon his freedom of action as determined by the right of others and the need for order in a democratic society. Without a responsible citizenry democratic institutions will not survive.

## Knowledge Objectives

1. *to discover the origins of rights in a democratic society*
2. *to discover the origins of responsibilities in a democratic society*
3. *to illustrate the rights and responsibilities of an individual in a democratic society*
4. *to identify and evaluate the (formal) institutions and procedures designed to protect individual rights*
5. *to identify and evaluate the formal institutions and procedures designed to hold an individual accountable for his actions.*

## Skill Objectives

- *to perceive relationships of issues presented in several documents.*
- *to analyze documents and graphics in terms of the central issue presented or portrayed in the selection.*
- *to evaluate communications related to civic matters.*
- *to generate sound proposals for solutions of social problems.*
- *to identify issues involved and recognize possible conflict among values, e.g., freedom and security.*
- *to act responsibly and to justify one's actions and opinions.*

# Activities to Develop the Knowledge Objectives

## Knowledge Objective 1

*to discover the origins of rights in a democratic society*

**Activity 1**

- Provide each student with a copy of the Declaration of Independence.

- Remind students that the Declaration of Independence was introduced in the previous unit to help students understand the power of the people in a government. The major part of the Declaration, however, is a recital of the ways in which the king of Great Britain violated the rights to which the people were entitled.

Related Understandings for these activities:

Grade 7: THE DECLARATION OF INDEPENDENCE SHOWED THAT THE COLONIAL LEADERS WERE AWARE OF THE GREAT IMPORTANCE OF THEIR ACTIONS BOTH FOR THEIR OWN TIME AND FOR THE FUTURE.

Understandings already introduced at lower grades:

Grade 3: GOOD CITIZENS RESPECT THE RIGHTS OF OTHERS.

- On pages 69 to 70 are some episodes from American history and from the present day. Assign a small group of students to each of the episodes to discover which of the grievances against the king is/are most similar in terms of the right that has been violated in the episode.

- Decide whether a right is violated in this case, and whether there is adequate protection for the individual in such a situation today.

- Have students find newspaper headlines or pictures which are related to other grievances in the Declaration of Independence.

Note to teachers: the objective of including the examples is to get students to consider the extent to which rights are guaranteed to any of the individuals depicted.

**Activity 2**

- Give each student a copy of the Bill of Rights.

- Have them match the protections of rights in the Bill of Rights with the grievances in the Declaration of Independence.

- Identify the source of the rights, pushing the discussion beyond the documents themselves, to how these documents came about. How does the first paragraph of the Declaration of Independence help in determining the source of these rights? Compare the presumed rights of the Declaration of Independence and the Constitution, including the Bill of Rights.

*The Revolution,*
*No. 49 East 23d St. (Woman's Bureau),*
*New York, June 4th, 1869.*

*ALFRED F. PUFFER, Deputy Collector of Internal Revenue.*

*"Dear Sir: I have your polite note informing me that as publisher of THE REVOLUTION I am indebted to the United States government in the sum of $14.10 for the tax on monthly sales of that journal.*

*"Enclosed you will find the amount—fourteen dollars ten cents—but you will please understand that I pay it under protest.*

*"THE REVOLUTION, you are aware, is a journal, the main object of which is to apply to these degenerate times the great principles on which our ancestors fought the battles of the Revolution...to inflict taxation upon any class of the people, without at the same time conferring upon them the right of representation, is tyranny.*

*"I am not represented in the United States government, and yet that government taxes me; and it taxes me, too, for publishing a paper the chief purpose of which is to point out and rebuke the glaring and oppressive inconsistency between its professions and its practices.*

*"Under the circumstances, the Federal government ought to be ashamed to exact this tax of me. However, as there is such pressing need of money to supply a treasury...I consent to contribute to its necessities this large sum ($14.10), assuring you that when the women get the ballot and become their own representatives, as they surely will and that very soon, they will conduct themselves more generously and equitably toward the men than men now do toward them; for we shall then not only permit you to pay taxes, but compel you vote also. ...*

*"I am, dear Mr. Puffer, very respectfully yours,*
*SUSAN B. ANTHONY."*

(From The Revolution, Vol. III, No. 24. June 17, 1869. p. 369.)

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THE NEW YORK DETENTION ROOM, ELLIS ISLAND

(From Century Magazine, March 1903, page 680.)

*"I got problems in school because I cut out a lot. Like when I was in the sixth grade and my friend Pedro told me to cut out for the first time, I was scared. But I liked it, so I cut out again and again, and I started getting into the habit. When I went to Junior High School I got more and more friends and I just liked to cut out of school with girls for gigs. And now that I go school, wow, I just can't get used to it. I'm in the ninth grade and it's boring, boring. I can't wait to get out of school.*

*"My favorite subject is gym. And my least favorite is science. If it wasn't for school I wouldn't be in trouble. That's the main problem. Like school is the main problem for everything for me. Once I go to school, things start happening. My mother starts arguing with me—if I didn't go to school I wouldn't have no problems at all. But I don't want to quit. I really don't know what I want. I just don't know what I want to be or where I want to go."*

(From Growing Up Puerto Rican, edited by Paulette Cooper. Copyright 1972. Arbor House Publishing Company. pp. 24-25.)

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*EDUCATION LAW § 3214*
*Compulsory Education*

*"6. Suspension of a minor. a. The board of education, board of trustees or sole trustee, the superintendent of schools, or district superintendent of schools may suspend the following minors from required attendance upon instruction:*

*"(1) A minor who is insubordinate or disorderly, or whose conduct otherwise endangers the safety, morals, health or welfare of others;*

*"(2) A minor whose physical or mental condition endangers the health, safety, or morals of himself or of other minors; ...*

*"b. The board of education, board of trustees, or sole trustees may adopt by-laws delegating to the principal of the district, or the principal of the school where the pupil attends, the power to suspend a minor for a period not to exceed five school days.*

*"c. No pupil may be suspended for a period in excess of five school days unless such pupil and the person in parental relation to such pupil shall have had an opportunity for a fair hearing, upon reasonable notice, at which such pupil shall have the right of representation by counsel, with the right to question witnesses against such pupil. Such hearing shall be held before the superintendent of schools if the suspension was ordered by him. An appeal to the board of education shall lie from his decision upon such hearing. If the suspension shall have been ordered by the board of education, such hearing shall be before such board."*

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*"The inhabitants (1 of Lancaster, Pa.) are very wealthy. They came as poor people from all parts of Germany. The houses are very clean inside and the way of living is exactly like that in Germany. Our hopes of being received in this town by our countrymen in a hospitable manner, were cruelly deceived. Most of them had to be forced by the escort to let the officers have a room in their houses. They behaved altogether very mean to us. However, I must say that there were a few nice ones among them. On the whole, we were ashamed of being Germans, because we never had met so much meanness in one spot as from our countrymen.*

(From Journal of Du Roi The Elder - Lieutenant and Adjutant, in the Service of the Duke of Brunswick, 1776-1778 by Charlotte S. J. Epping. University of Pennsylvania. 1911. p. 142.)

Note: The writer was a German soldier who was captured at the Battle of Saratoga and was being marched to prison camp in Virginia.

## Activity 3

- In a speech made in 1616, King James I of Great Britain made the following statement:

> *"Keep you therefore all in your own bounds... . As for the absolute prerogative of the Crown, that is no subject for the tongue of a lawyer, nor is (it) lawful to be disputed. It is atheism and blasphemy to dispute what God can do; good Christians content themselves with his will revealed in his Word. So it is presumption and high contempt in a subject to dispute what a King can do, or say that a King cannot do this or that... ."*
>
> (From Constitutional Documents of the Reign of James I - A.D. 1603-1625 With An Historical Commentary by J. R. Tanner, Litt.D. Cambridge University Press. 1930.)

  - What is the source of the king's rights?
  - How does this statement compare with the first paragraph of the Declaration of Independence, concerning the source of rights? concerning the person(s) to whom the rights are given?
  - Under what circumstances in each document, can action be taken to bring a change? By whom can the action be taken?

- Alternate strategy: If students have the oversimplified impression that in Great Britain of 1776 kings still ruled by divine right, try some exercises that deal with time and change over two centuries.
  - A student could report to the class concerning the execution of Charles I.
  - Note that the king had the power to veto a law of Parliament, but none had been vetoed since 1707. What does this say about the king's power?
  - Have students read in a United States history text about the American Revolution, how Great Britain found enough soldiers to fight the colonists.
    - --Would a divine right monarch have to hire soldiers?
  - Have students read in an encyclopedia or a textbook, how the 30,000 German troops called Hessians came to play a part in the American Revolution.
    - --What kind of power would a ruler have to force a man to fight for another country, in a war in which that person did not have an interest?

- Most American history texts discuss the ways that King George III manipulated Parliament to give him greater power. Some comparisons may be made with the way that executives today court favor of legislators, or trade off support of one piece of legislation for another.
  - --Was George III a divine right king? What reasons should be given to support the answer?

Knowledge Objective 2

*to discover the origin of responsibilities in a democratic society.*

### Activity 1

- Give students either a copy of the cartoon on p. 73, or a set of headlines similar to the list below.

- If the cartoon is used, have students

  - Identify the participants and discuss the interrelationships of the data identified in the above step, i.e., who is the man with the bell? What power figure does he represent? Who are the victims? What are they screaming about the man's message? What are the apparent criminals saying?

  - Classify the actions as:
    - --antisocial or criminal (need for law enforcement)
    - --needing conflict resolution by a third (impartial) party (need for a judicial process)
    - --showing impact of a moral and/or ethical acceptance or rejection of the situation described (based upon value foundation).

(Example: Many examples of violations of the Ten Commandments are shown in the cartoon. A person whose religious training has included strict adherance to the Commandments would classify these actions as wrong, whether there were a law prohibiting the action or not.)

Related Understandings for these activities:

Grade 7: IN ADDITION TO BELONGING TO AND WORKING IN A POLITICAL PARTY, A CITIZEN HAS DUTIES WHICH ARE OUTSIDE THE REALM OF HIS/HER PARTY.

Understandings already introduced at lower grades:

Grade 1: THERE ARE CERTAIN RULES AND LAWS WHICH MUST BE OBSERVED FOR THE COMMON GOOD.

Grade 2: PEOPLE WHO LIVE IN A DEMOCRACY HAVE MANY RIGHTS AND FREEDOMS. WITH THESE GO MANY RESPONSIBILITIES.

- In small group discussions, use the Summer of 1977 Blackout in New York City, or a hypothetical outer space situation such as one posed by a Star Wars type of setting:
  - What behaviors are expected of people in an emergency situation such as a blackout? Give some examples of positive behavior.
  - On what teachings or previous experiences are these behaviors based?
  - In view of the existence of codes such as the Ten Commandments, why did so many incidents that were antisocial or criminal occur during the Summer Blackout?
  - What greater needs for law enforcement arise if ethical or moral codes are not preventing injuries to others and wrongdoing? Give examples of laws to prevent wrongdoing, that have counterparts in ethical and moral codes.

### Activity 2

- Have students complete the following chart.

| Rights | What Are Your Responsibilities? |
|---|---|
| 1) To Free Speech or Expression | |
| 2) To Assemble or Demonstrate | |
| 3) To Bear Arms | |
| 4) To Privacy | |
| 5) To Practice Your Beliefs or Religion | |
| 6) To Vote | |
| 7) To Your Own Opinions | |
| 8) To Have a (Fair) Hearing | |
| 9) To Have an Education or to Learn | |

- Discuss the idea of an ethical or moral code in a society: What examples can students give? How is such a code related to laws in society?

- How effective is such a code without law enforcement agencies? Without a judicial process?

- Would everyone act fairly toward others if no code existed? If no one had power to decide what was right, or to resolve conflicts.

- Headlines:

  1) Kidnapper Escapes With $100,000 Ransom - Child Found Dead!

  2) Unsafe Toy Blinds Toddler!

  3) Husband Kills Wife in Family Dispute!

  4) Hit and Run - Driver Arrested After Week-long Search!

  5) Consumer Group Sues Company; Charges Fraud!

  6) Mugging Crimes are Skyrocketing in City

  7) State Appoints Special Investigator to Rout Out Gambling in City!

  8) Skyjacker Seeks Refuge in Foreign Country!

  9) Judge Awards Record Settlement in Malpractice Suit!

  10) National Church Groups Organize to Protest New State Gambling Law!

  11) Religious Leaders Join in Call for Peace in Local Busing Dispute!

  12) Family Groups Decry Lack of Discipline at Local School!

- If the headlines are used:

  - Have students identify the participants and the action described in each of the headlines.

  - Classify the kinds of actions being presented as:
    --antisocial or criminal (need for law enforcement)
    --needing conflict resolution by a third or impartial party (need for a judicial process)
    --showing impact of a moral and/or ethical acceptance or rejection of situation described

(Example: A person whose value system includes classifying all gambling as against the teachings of his/her church would react to headline 10 in terms of that belief.)

### Activity 3

- In an upstate city, the police uncovered a ring of criminal activity in which boys under 15 were drawn by adults into mugging and purse snatching activities. In most of these activities, an adult or an older juvenile would stand by, and the proceeds of the robbery were turned over to an adult professional crime group.
  - Discuss what attractions this kind of life would have for the boy thieves. What drawbacks would there be?
  - List all of those who are not accepting responsibility for the welfare of others.
  - What training and experiences concerning responsibility would each have had previous to being involved in this kind of activity?
  - If positive training/experiences have not established a value system which rejects this activity, what laws can be written and how can law enforcement systems be designed to place responsibility on these individuals?
  - In some areas, teenaged girls have been involved in shoplifting rings, with adult receivers of stolen goods. Do the same questions of responsibility apply here?

### Knowledge Objective 3

*to illustrate the rights and responsibilities of an individual in a democratic society.*

### Activity 1

- Have students read the case study, "The Underground Newspaper," on p. 77.
- Without any prior discussion among students about the case, have each student vote by written ballot whether the School Board should back the principal's decision to suspend Laura. Collect the ballots and hold for later use.

Related Understandings for these activities:

Grade 7: THE NEW YORK STATE GOVERNMENT HAS TAKEN CARE OF THE ADMINISTRATION OF THE DIFFERING NEEDS OF ITS PEOPLE IN DIFFERING AREAS BY PROVIDING FOR LOCAL GOVERNMENTS.

Grade 8: ALL AMERICAN CITIZENS, WOMEN AS WELL AS MEN, HAVE RESPONSIBILITIES AS WELL AS RIGHTS.

# THE UNDERGROUND NEWSPAPER

Laura has been the editor of an underground junior high school newspaper called TNT (Today Not Tomorrow). As part of its weekly features it has included a rating poll (report card) for each teacher in the school and for the principal, Mr. Jones. It also named students who cooperated with the teachers and principal. Each morning before school begins, Laura has been distributing copies at the entrance to the school.

One Monday morning, Mr. Jones observed that Laura is blocking the entrance to the school and that some students refused to accept her paper. When the bell rang for homeroom he insisted that Laura stop distributing her paper and go to class. Laura complied. However, in between classes Laura continued to pass out her paper and decided to wear a large TNT button. Just before Mrs. Roberts' social studies class, Mrs. Roberts observed a commotion.

A group of students led by Mark and other members of SAFE (Students for American Freedom in Education) were arguing with Laura about her button and in the ensuing action, Laura shouted that she had a right to wear it. The leader of the opposing group attempted to remove the button. Mrs. Roberts interceded and asked Laura to sit down so that she could begin to teach. Laura refused and insisted that not she, but the others should be reprimanded. Mrs. Roberts, unable to settle the dispute, called for Mr. Jones, the principal. Laura was called out of class and told to obey Mrs. Roberts' request. She refused and was warned that if she continued she would be suspended. Laura argued once again that she had a right to her actions and that Mr. Jones and Mrs. Roberts were "out to get her." Mr. Jones suspended Laura.

Below are excerpts of what various witnesses might say at the suspension hearing before the Commissioner of Education.

Laura - "I have my rights! Those uptight clowns are always getting their way. They pushed me around but they didn't get suspended. If it were up to them, we'd all be puppets doing what Mrs. Roberts and Mr. Jones want us to do. As for the teacher and principal, well I'm not surprised. I knew they'd figure out a way of squashing my paper. They don't like seeing report cards on them."

Mark - "Creeps like Laura are always 'bad-mouthing' and/or putting everything down. They're never satisfied and are pushing their ideas and junk on us. We're the majority and don't have to listen to what she says or wants. It's our school and if she doesn't like it she can get out. We're just standing up for our rights too!"

Uninvolved student - "I don't care about TNT or SAFE. I worked hard all week long on my social studies report and didn't even get a chance to hand it in. Those two groups are always hassling and it makes it rough for me to do what I want, or to learn."

Teacher - "My job is to teach, not referee. It seemed to me that Laura had started the fight and I thought if I could get her to sit down I could have begun teaching. Funny, my lesson for that day was on how students can present their views, and what rights and responsibilities each must recognize."

Principal - "I'm paid to run a school, not an arena for fights. The parents expect a safe and orderly place in which our students can learn. Laura broke the rules and instigated the commotion. I warned her what would happen. I think she wanted to be suspended to look like a martyr. Mrs. Roberts tried to do the right thing and I was forced to suspend Laura."

Understandings already introduced at lower grades:

Grade 2: PEOPLE WHO LIVE IN A DEMOCRACY HAVE MANY RIGHTS AND FREEDOMS. WITH THESE GO MANY RESPONSIBILITIES.

Grade 4: AMERICAN FREEDOMS, WHICH ARE EITHER SOCIAL, RELIGIOUS, ECONOMIC, AND/OR POLITICAL IN NATURE, HAVE EVOLVED THROUGH THE YEARS AS WE WORKED TOWARD TRUE EQUALITY AMONG ALL PEOPLE.

- Students may role play a hearing before the local Board of Education (or the State Education Commissioner) concerning Laura's suspension, with each of the parties concerned offering testimony similar to the dialogue in the story.
  - An alternative is the use of small group sessions, with each group assigned a different party in the story.
  - Students can identify through watching the role play action, or in the small group discussions, the rights and responsibilities of of each of the participants in the account. This can be recorded on a master chart for the class.

| Participant | Rights | Responsibilities |
|---|---|---|
| Laura and TNT members | | |
| Mark and SAFE members | | |
| etc. | | |

- Alternative strategy: Judge the right or wrong of each participant using the following positions:
  - Laura should obey rules and laws but she should have a forum for their presentation and protection from mob intimidation.
  - The leaders of SAFE have a right to their viewpoints but cannot use force to foster their positions.
  - The uninvolved student has a right to learn without agitation and disruption.
  - The teacher has the right and responsibility to teach, and to have Laura and leaders of SAFE identify both their rights and responsibility. Her actions should reflect not a biased or expedient approach to the situation but rather an even-handed and fair application to both parties in this action or case.
  - The principal has the right and duty to administer the rules necessary to the safe and orderly maintainance of his school and to provide a structure or forum or atmosphere where all students rights are clearly protected and where their responsibilities are clearly understood.

Activity 2

- Legal documents may be used to illustrate the relationship of the law to the rights and responsibilities of each party in a dispute.

  - Testimony from the case of Sullivan vs. The Houston Independent School District (1969, 307 Federal Supplement, pp. 1348-1349) is included in the Department publication, *American Civilization in Historic Perspective, Part II: Education*, pp. 14-15. This case concerned expulsion of two high school students for publishing an underground newspaper. The Federal Court ruled in favor of the students.

  - Testimony from the case of Tinker vs. Des Moines Independent Community School District, (393 U.S., October Term, 1968, pp. 512-522) is included in the following Department publications:
    --*American Civilization in Historic Perspective, Part II: Education*, pp. 15-16.
    --*Teaching About Basic Legal Concepts in the Junior High School*, pp. 143-145.
    --*Materials for Using the American Issues Forum in the American History Classroom. Topic III: Certain Unalienable Rights.*, p. 64 (brief quotation only.)

  This case concerned the rights of students to wear black armbands or other insignia in protesting the Vietnam War. The majority opinion of the Supreme Court supported the students' right to protest, if they accepted the responsibility not to disrupt the school's program.

  Excerpted below are 2 statements in the Tinker Case which illustrate the differing opinions of the justices involved in these decisions:

  Supreme Court Justice Fortas (majority decision)

> *"...In order for the State in the person of school official to justify prohibition of a particular expression of opinion, it must be able to show that its actions were caused by something more than a mere desire to avoid the discomfort and unpleasantness that always accompanies an unpopular viewpoint... . In this case...there was no such finding that the school authorities had reason to anticipate that the wearing of the armband would substantially interfere with the work of the school or impinge upon the rights of other students. In this case the record shows only one symbol was singled out...not those...(who) wore the Iron Cross.*
>
> *"...The Constitution says that Congress and the State may not abridge the right to free speech. This provision means what it says. ... But we do not confine the permissable exercise of First Amendment Rights to telephone booths or the four corners of a pamphlet or to supervised and ordained discussion in a school classroom. ...*

*"If a regulation were adopted by school officials forbidding discussion of the Vietnam conflict or the expression of opposition to it on school property except as part of a prescribed classroom exercise, it would...violate the constitutional rights of students."*

Supreme Court Justice Black (dissenting opinion)

*"While I have always believed that under the First and Fourteenth Amendments neither the state nor Federal Government has any authority to regulate or censor the content of speech. I have never believed that any person has a right to give speeches or engage in demonstration where he pleases and when he pleases...I wish to disclaim...any purpose (which says that)...teachers, parents and elected school officials (must) surrender control of the American public school system to public school students."*

- Have students discuss the contrasting opinions in the Tinker Case and use school incidents to identify examples in which people differ in their interpretation of who is entitled to rights and what responsibilities are entailed.

• Alternative activities: Other court cases can be used in similar ways as the Tinker Case.

- Other court decisions which can be used:
  --Eisner vs. Stanford Board of Education, 314 Fed. Supp., 314 Fed. Supp., 832 Modified, 440 Fed. 2d. 803 Decisions - Re. — Armbands/ Buttons symbolic speech
  --Burnside vs. Byars, 363 Fed. Supp., 749 Fifth circuit, July 21, 1966
  --Blackwell vs. Issaquene County Board of Education, 314 Fed. Supp., 748 5th circuit, July 21, 1966
  --Butt vs. Dallas Independent School District, 306 Fed. Supp. 488, reversed 436 Fed. 2d 728
  --Guzik vs. Drebus, 305 Fed. Supp., 474, affirmed, 431 Fed. 2d. 594
  --Hernandz vs. School District No. 1, Denver, Colorado, 315 Fed. Supp. 289

- A brief statement about the "Underground" Press is included in *Guidelines for Students Rights and Responsibilities*, available from the Commissioner's Student Advisory Committee of this Department.

**Activity 3**

• At the conclusion of activities 1 and 2, once again take a vote in this case and analyze the results in comparison to initial vote. Discuss and analyze the reasons for either a difference and/or a consistency of vote and the influences which were brought to bear on the results.

## Activity 4

- Before reading "The Real Estate Incident" have class members respond by show of hands to the following questions:
  - Do you think a person should have the right not to sell his property to someone he does not want to if they are qualified buyers?
  - Do you think a person's neighbors should be able to dictate to him whom he should sell his property to or to whom he would not sell his property?
- Using the case, "The Real Estate Incident," and the related documents, students in small groups or in class discussion can deal with the following questions:
  - Which of the laws or Constitutional statements did Mr. Johnson violate in this incident? What can the Browns do if they can prove that parts of this law were violated?
  - Suppose Mr. Johnson knows that another broker was forced out of business because he had shown homes in the Hills to minority groups that the owners refused to list their houses with him. Would that make you feel differently? Does Mr. Johnson have the right to protect his business if it means violating the law?
  - Would you think Mr. Johnson was justified if another black family had bought a house in the neighborhood and they had been threatened and the house had been burned? Should Mr. Johnson inform the Browns of this rather than acting the way he did?
  - List the rights and responsibilities of each participant in this case. In which instances do the rights of one person conflict with those of another?
- Have students find out the laws and regulations regarding the licensing of Real Estate Brokers and Agents in New York State. To what agencies in the state could the Browns complain and what action could be taken against Mr. Johnson?
- Are women presently protected against discrimination by the above laws and rulings? Talk with a real estate official about women's rights as property owners.

## The Real Estate Incident

R. J. Realty Office - Mr. & Mrs. Robert Brown come into office - A black couple in their 30's. Mr. Johnson, the real estate broker is at his desk.

Mr. Johnson - "Can I help you?"

Mr. Brown - "Yes, we saw your advertisement in the paper for the ranch house for $40,000 and we would like to see it."

Mr. Johnson - "Well, OK, I need some information first—what is your income? What type of job do you have?"

Mr. Brown - "Mr. Johnson, I assure you there is no problem. I am an executive with an advertising firm, my income is $25,000 and I have cash to put down. I will have no trouble getting a mortgage—now can I have some information about the house?"

Mr. Johnson - "Well, I'm afraid that house was sold this morning, but I have some other houses I can show you."

Mr. Brown - "Are they in the same area? The advertisement said this house was in the Hills and that is the area we are interested in."

Mr. Johnson - "Well, no—I don't have anything else available in that area. These other homes are in the southern part of this town."

Mr. Brown - "Well, thank you but we really want to be in the Hills, we will try again."

Mr. Johnson - "It is going to be difficult; houses in that area do not go on the market often. Try me again."

(The Browns leave the office — the phone rings.)

Mr. Johnson - "R.J. Realty—may I help you? Yes, the house in the Hills is still available. Yes, I have other homes I can show you there. Would you like to make an appointment to come in?"

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Related Documents

1. 14th Amendment (See copy of United States Constitution)
2. Congressional Law - 1866 - *"All citizens of the United States shall have the same right in every state and territory, as is enjoyed by white citizens thereof to inherit, purchase, lease, sell, hold, and convey real and personal property."*
3. Buchanan vs. Warley - 1917 - *"Each citizen has a right to buy or sell property. No city or state can take away any right guaranteed by the Constitution of the United States."*
4. Shelley vs. Kraemer - 1948 - Supreme Court. This ruling ended restrictive covenants. Neighborhoods that had wanted to keep minority groups out made private agreements that would sell their property only to certain groups, or they listed groups to whom they would not sell their property. If a house was sold the new owner had to agree to it.

   The Supreme Court ruled that restrictive covenants were not permitted by the 14th Amendment.

   a) States cannot use their power to deny a right guaranteed by the Constitution, therefore, they cannot enforce restrictive covenants.

   b) Restrictive covenants could be made but no court has the power to enforce them.

5. Fair Housing Law - 1968 - This makes criminal acts with a jail term of up to one year and/or $1,000 fine for the following:

*"To refuse to sell or rent...a dwelling to any person because of race, color, religion, or national origin.*

*"To discriminate against any person...in the sale or rental of dwelling, or in the provision of services (in that dwelling) because of race, color, religion, or national origin.*

*"To make print or publish...any notice, statement, or advertisement with respect to sale or rental of dwelling, that indicates any preference, limitation, or discrimination based on same... .*

*"To represent to any person because of race, color,...that any dwelling is not available for inspection, sale or rental when such dwelling is in fact available."*

James V. Alfred vs. Mayer Co. - 1968 - Supreme Court ruling -

*"Any negro citizen who is denied the right to rent or buy a home is being denied a right guaranteed by the Constitution and laws of the United States.*

*"Private persons cannot act in ways that deny equal treatment to any citizens deciding to rent or buy property."*

Knowledge Objective 4

*to identify and evaluate the (formal) institutions and procedures designed to protect an individual's rights.*

Knowledge Objective 5

*to identify and evaluate the formal institutions and procedures designed to hold an individual accountable for his actions.*

Activity 1

- Have the class develop a list of school and community situations in which a person would want to have someone speak for him or her, or give advice. Some examples that might be given:

  - Yesterday afternoon you saw some students attempting to open a locker. Tonight you just had a threatening phone call, in which you were told you'd be beaten up if you said anything to anybody about who you saw in that hall yesterday after school. You are due in the principal's office tomorrow morning, together with some others who have lockers in that hall.

  - Jane and Anne claim that they saw you slip a pullover under your jacket when you were in the Pant and Top Shop yesterday. Today the store manager has called the principal, claiming that a number of items of clothing were missing when she closed the shop last night.

  - Someone threw a firecracker in the back room of the library yesterday. All of you who were in there have been told that you are suspended indefinitely from the library. You have a report due and need to use the books.

- In talking about the situations on the list, the class may consider these questions:

  - How could the school or the community guarantee someone to speak for you?

Related Understandings for these activities:

Grade 7: IN ADDITION TO BELONGING TO AND WORKING FOR A POLITICAL PARTY, A CITIZEN HAS DUTIES WHICH ARE OUTSIDE OF THE REALM OF THE PARTY.

Grade 8: MOST AMENDMENTS WERE ADDED TO THE CONSTITUTION TO MEET THE NEEDS OF OUR SOCIETY IN PARTICULAR PERIODS OF HISTORY.

ALL AMERICAN CITIZENS, WOMEN AS WELL AS MEN, HAVE RESPONSIBILITIES AS AS WELL AS RIGHTS.

Understandings already introduced at lower grades:

Grade 2: PEOPLE WHO LIVE IN A DEMOCRACY HAVE MANY RIGHTS AND FREEDOMS.

Grade 3: GOOD CITIZENS RESPECT THE RIGHTS OF OTHERS.

  - What sorts of help would such a person give you? Do you have to be a witness? Can someone be forced to be a witness for you, even if he/she "doesn't want to get involved"?

  - Rate the cases against each other; in which would you need help most?

Note to teacher: the concepts, "advocacy" and "adversary" are being introduced here, although the terminology is not necessary for reaching the knowledge objectives.

- A number of recent publications for students have included real or simulated incidents which can be used for understanding the role of the advocate. A recently published example is "Getting to the Memphis Five," in *Criminal Justice*, from the Constitutional Rights Foundation and Scholastic. Have students look through any student law-related text materials available to them for relevant incidents.

## Activity 2

- Have the students read the circumstances of the Gideon case on page 88. Give no other information at this time. Have the students write their answers to the following questions about the circumstances they have just read. Collect the papers without comment and hold until later.

  - What is your opinion (attitude) regarding Clarence Gideon as a person?

  - If you had been a juror, given the above information, how would you have voted? Why?

- Select two students to role play the dialogue between Gideon and the judge as the case began in Florida lower court which is given on page 88.

- Have the students read and discuss the documents and Supreme Court decision on page 89. (This may be done by assigning one document to each of five small groups, with directions to report to the large group how that document was related to the preceding dialogue.)

- The following questions may be used in class discussion of the documents:

  - What rights of an accused person are found in the documents considered?

  - How are the 5th and 6th Amendments different from Amendment 14?

  - Explain what is meant by the phrases "due process of law" and "the equal protection of the laws."

Note: Students should understand that in all criminal cases in the Federal courts, the defendant had the right to counsel but that this was not the rule in most State courts, except, according to most State procedures, in capital offenses. At issue was whether a State's refusal to furnish a lawyer deprived a defendant of his life or liberty without due process of law and deprived said defendant of equal protection of the laws as guaranteed by the 14th Amendment.

- Was Gideon correct when he said to the judge "The United States Supreme Court says I am entitled to be represented by counsel?"

- Do you agree with the Supreme Court decision in the case of Betts vs. Brady? Why or why not?

- Have the students study the additional circumstances of the Gideon case given on page 89. On the basis of the fact circumstances studied, have the students discuss the following questions:

  - On what grounds do you suppose the Florida Supreme Court denied Gideon's petition?

  - On what grounds do you suppose the United States Supreme Court agreed to hear his case?

  - Identify the role of each of the five persons depicted in the case of Gideon vs. Wainwright.

  - How is a Supreme Court trial different from a lower court trial? Why?

  - On what grounds did the United States Supreme Court return the case to the Florida Supreme Court?

  - What effect did the United States Supreme Court's ruling have on its earlier decision in the case of Betts vs. Brady? Is this unique?

  - In the retrial of Gideon held in Florida, in what ways do you think he was helped by the assistance of counsel?

  - How do you suppose the outcome of the Gideon case affected other persons imprisoned in Florida?

Note to teacher: By October, 1963, 3,000 prisoners in Florida, all of whom had been convicted without having the assistance of counsel, had asked for new trials. By January, 1964, 976 had been released from prison without new trials. Florida authorities decided that these cases could not be successfully retried and 500 other cases were back in the courts.

- Have students answer again the two questions given in the first part of Activity 2. A student committee can analyze the differences in judgments of Gideon, and in the ways that they would vote, as jurors.

Additional related activities:

- Have a lawyer from the Public Defender's office speak to the class about his/her role in the criminal justice system.

- Have the students analyze one or more of the many television series. (How "true-to-life" are they? What biases, if any, do they reflect? What impressions do they leave with the audience?)

- Have interested students research later Supreme Court decisions which related to the Gideon case:

  - Escobedo vs. Illinois (1964)
  - Miranda vs. Arizona (1966)

- Have the student view the Encyclopedia Britannica Educational Corp. film, Justice Under the Law - the Gideon Case (23 min.) from Our Living Bill of Rights Series. This is in most BOCES film libraries.

Note: other resources related to Gideon and the two suggested cases can be found in:

- *Teaching About Basic Legal Concepts in the Junior High School*, Module III.
- *Teaching About Basic Legal Concepts in the Senior High School*, Module III, p. 48 and Module V, p. 56.
- *Materials for Using the American Issues Forum in the American History Classroom*, Topic III, "Certain Unalienable Rights"

## Readings for Activity 2

Note: Each of the separate segments on this page may be reproduced as a student worksheet to use with activities described on the pages noted.

### Circumstances of the Gideon Case (for activity described on page 85)

- Clarence Gideon, having run away from his Missouri home at age 14, spent half of his years between ages 18 and 51 in prison, serving four different terms for burglary and larceny.
- Living in Panama City, Florida, between 1957 and 1961, Gideon was twice arrested for burglary but not convicted.
- In June of 1961, Gideon was arrested and charged with breaking and entering a poolroom with intent to commit petty larceny. The Bay Harbor Poolroom had been entered through a smashed window; a cigarette machine and jukebox had been forced open and coins taken; several bottles of wine and beer had been stolen.
- In August, 1961, the case of the State of Florida vs. Clarence E. Gideon was tried. Henry Cook, a key witness for the state, testified that at 5:30 a.m. on June 3, he had seen Gideon in the poolroom and that after a few moments saw him leave with a bottle of wine in his hand. Convicted by the jury, Gideon was sentenced to five years in Florida State prison.

### Dialogue of the Gideon Trial in a Lower Court (for activity described on page 85)

Judge: What says the defendant? Are you ready to go to trial?

Gideon: I am not ready, your Honor.

Judge: Did you plead not guilty to this charge by reason of insanity?

Gideon: No, sir.

Judge: Why aren't you ready?

Gideon: I have no counsel (lawyer).

Judge: Why do you not have counsel? Did you not know that your case was set for trial today?

Gideon: Yes, sir. I knew it was set for trial today.

Judge: Why, then, did you not secure counsel and be prepared to go to trial?

Gideon: Your Honor,...I request this court to appoint counsel to represent me in this trial.

Judge: Mr. Gideon, I am sorry, but I cannot appoint...counsel to represent you in this case. Under the laws of the State of Florida, the only time the court can appoint counsel to represent a defendant is when that person is charged with a capital (punishable by death) offence. I am sorry, but I will have to deny your request to appoint counsel to defend you in this case.

Gideon: The United States Supreme Court says I am entitled to be represented by counsel.

### Related Documents (for activity described on page 86)

- Massachusetts Body of Liberties (1641)

*Every man that findeth himselfe unfit to plead his own cause in any court shall have liberty to employ any man against whom the court doth not except, to help him, Provided he give him noe fee or reward for his paines. This shall not exempt the partie him selfe from Answering such Questions in person as the court shall thinke meete to demand of him... . In all Actions at law it shall be the libertie of the plaintife and defendant by mutual consent to choose whether they will be tryed by the Bench or by a Jurie, unlesse it be where the law upon just reason hath otherwise determined. The like libertie shall be granted to all persons in Criminall cases.*

- 5th Amendment, Bill of Rights (1791)

  *No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land and naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property without the due process of law; nor shall private property be taken for public use, without just compensation.*

- 6th Amendment, Bill of Rights (1791)

  *In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.*

- 14th Amendment - Section I (1868)

  *All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.*

- Betts vs. Brady (1942)

  *The accused, Smith Betts, charged with robbery, could not afford a lawyer. When tried in a Maryland court, he asked the judge to appoint counsel for him. This request was refused on the grounds that counsel was appointed only in capital cases. Betts appealed to the U.S. Supreme Court, claiming violation of his rights guaranteed by the 6th amendment. He lost his appeal, the Supreme Court in effect ruling that the Maryland State law prevailed in his case and that the 6th Amendment did not necessarily apply to a State court.*

## Additional Circumstances and Supreme Court Decision in the Gideon Case (for activity described on page 85)

- Gideon was sent to prison, convinced he had not had a fair trial. Studying lawbooks in the prison library, he sent a petition to the Florida Supreme Court seeking a Writ of Habeas Corpus to reopen his case on the grounds that without counsel, he had not received a fair trial and that his constitutional rights guaranteed by the Bill of Rights and the 14th Amendment had been denied. The Florida Supreme Court turned down his petition. In January of 1962, Gideon sent a petition to the U.S. Supreme Court asking it to hear the case and to treat him as a pauper, unable to pay for legal advice. The Supreme Court agreed and appointed Washington lawyer Abe Fortas to present Gideon's case before the Court. The case for the State of Florida was presented by its Assistant Attorney General, Bruce Jacob. Louis Wainwright was the then Corrections Director for the State of Florida against whom Gideon technically directed his case.

- Unanimous Decision of the United States Supreme Court, March 1963

  *Court opinion written by Justice Hugh Black: Reason and reflection require us to recognize that in our adversary system of criminal justice, any person hailed into court, who is too poor to hire a lawyer, cannot be assured a fair trial unless counsel is provided for him. This seems to us to be an obvious truth. Governments, both state and federal, quite properly spend vast sums of money to establish machinery to try defendants accused of crime. Lawyers to prosecute are everywhere deemed essential to protect the public's interest in an orderly society. Similarly, there are few defendants charged with crime, few indeed, who fail to hire the best lawyers they can get to prepare and present their defenses. That government hires lawyers to prosecute and defendants who have the money hire lawyers to defend are the strongest indications of the widespread belief that lawyers in criminal courts are necessities, not luxuries. The right of one charged with crime to counsel may not be deemed fundamental and essential to fair trials in some countries, but it is in ours. From the very beginning, our state and national constitutions and laws have laid great emphasis* *on procedural and substantive safeguards designed to assure fair trials before impartial tribunals in which every defendant stands equal before the law. This noble ideal cannot be realized if the poor man charged with crime has to face his accusers without a lawyer to assist him... . Florida, supported by two other states, has asked that Betts vs. Brady be left intact. Twenty-two States, as friends of the Court, argue that Betts was an anachronism when handed down and that it should now be overruled. We agree.*

*The judgment is reversed and the cause is remanded to the Supreme Court of Florida for further action not inconsistent with this opinion.*

## Activity 3

- Have students keep a log of their actions during a 24-hour period recording each instance when they follow a rule or law or violate one. (Home, school, and community.)
  - For each action have them write down why they followed or obeyed the law.
  - For each rule or law they either followed or obeyed have them tell whether or not they feel it is a necessary rule or law and why or why not.
- The class may make a comparison of the treatment of a juvenile delinquent and an adult criminal in our legal system.

| | Juvenile Delinquent | Adult Criminal |
|---|---|---|
| Court Jurisdiction | | |
| Trial Procedures | | |
| Possible Sentences for Similar Crimes | | |

(A student committee might interview a family court judge, or a probation officer, to get help for the class in completing the chart.)

- References for the classic case concerning juvenile rights, in Re Gault, (1967) are given in *Teaching About Basic Legal Concepts in the Junior High School*, p. 103. It is also included in many of the student texts for civics and/or law-related education. Teachers may find it useful to introduce at this point, to develop understanding of the need for legal protection of the juvenile.
- Recent news stories have brought public demands for a tighter system in dealing with juvenile delinquents. Read the news item and the excerpts from the related editorial on page 92. Using what the class has learned through each of the steps above, discuss the following questions:
  - Should juvenile delinquents be treated differently from the treatments of adults?
  - Should parents be held responsible for the actions of their children?
  - What changes would you want to see in the treatment of juvenile delinquents?
  - Is the denial of a jury trial depriving them of their right according to the Bill of Rights?

Viewpoint

It rated only a brief story on Page 4 and didn't make any of the newscasts. After all, these kinds of incidents happen all the time. "3 teens charged in assault, thefts," the headline said.

The difference, to me, was that I was an after-the-fact witness to the effects that crimes like these have on the victims; thus I had a personal interest in how the Youthful Offender Law works in this case.

My wife and I had just left a supermarket in a suburban shopping center and were loading our car with groceries when a well-known Albany lawyer (there's no point in identifying him and embarrassing him) whom I've known for some time approached us. A usually quiet, gentle, self-effacing man, he appeared to be completely out of character. His clothing was disheveled and he obviously was highly agitated.

"Did you see what just happened to me?" he asked, adding "I can't believe it."

He then told me he had finished loading groceries in his car when several youths approached him and, without a word, brutally knocked him to the ground, ran to their nearby car and sped off. As startled as he was, his lawyer's instincts of observation came to the fore and he was able to get the license number of his assailants' car, which he gave the state police when he telephoned them from the supermarket just before he spotted me.

I waited with him until the troopers arrived. During that period, a battered two-door sedan careened into the parked lot. Three sleazy youths got out and started walking toward the supermarket. They looked like the type for whom the terms "hoodlum" and "punk" were invented. They obviously were looking for trouble and while my friend was trying to determine whether he could identify them, I walked toward their car to get the license number. As I approached, they turned tail, got into the car and sped off, without even closing the doors.

Soon thereafter the troopers arrived, and as my friend was telling them what had happened, another car approached. Out came a clerk from another supermarket with a youngster who said he also had been beaten by a group of young toughs.

The troopers drove off in search of the assailants. Before long they had three youths, 18, 17 and 16 in custody and charged with second degree assault (based on the beating of the lawyer), third degree robbery (based on a purse-snatching during the same period), driving while intoxicated and posssession of marijuana. Except for the marijuana aspect, which is a violation rather than a crime, these are serious charges.

However, since the defendants are under 19, they are eligible for treatment as youthful offenders. This does not mean they will not be punished. It does mean, however, that if convicted, they face lesser maximum sentences (five years in prison for the robbery charge, for example) than they would face if they were adults (seven years).

But even more importantly, if the judge who hears their case decides to treat them as youthful offenders, he will not identify them and will seal the records in the case. Thus, as far as the public is concerned, it will be as if nothing had occurred and these three youths have no criminal records.

The natural reaction would be that in view of the injury and misery these scum had brought on their victims, they deserve the maximum punishment and notoriety. Let the public know who they are.

However, the law will shield them, for the purpose of the Youthful Offender Law is to give a second chance to those who commit youthful indiscretions and permit them to go through life without the burden of a criminal record that could prevent them from getting a higher education and a good job.

This treatment usually is reserved for first offenders so that, for example, a 17- or 18-year-old who impulsively steals a car without thinking of the consequences may, if he hasn't been in trouble before, be classed as a youthful offender. Thus, although he may be punished and even if he goes to jail, the case is handled secretly as far as the records are concerned and if he later is asked by a college admissions officer or prospective employer if he has a criminal record, he legally may reply "No."

This generally is a good system, based on a good law and for good reasons, but like other well-intended good laws, it sometimes is abused. There are many cases of just plain no-good hoodlums benefiting from this favored treatment.

Under our system of justice, the benefits as well as the penalties must be dispensed even-handedly across the board, so that even the three toughs who beat my lawyer friend for no reason deserve the same protection of the Youthful Offender Law, if they are eligible for it, as the exuberant teenager down the street who drank a little too much at a party, drove off with someone else's car and probably never will do so again.

Until a better system comes along. I'm generally for going along with this one. But I still reserve the right to publish the names, if I can obtain them, of those youngsters, regardless of their age, who by their actions demonstrate they are not merely high-spirited kids who made a mistake, but hardened young criminals who don't deserve treatment as youthful offenders.

(From "Viewpoint" by Robert F. Fichenberg, Executive Editor, Albany Knickerbocker News, April 28, 1978.)

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## 3 teens charged in assault, theft

GUILDERLAND — Three teen-agers were charged Thursday night with second-degree assault and third-degree robbery in connection with an incident at the 20 Mall in Guilderland, state police at the Guilderland substation said today.

The youths, 16, 17 and 18, were charged in connection with assault and robbery of shoppers at the Price Chopper and the Star supermarkets in the mall. Police said their names were withheld because of their age. No other details were available.

(Knickerbocker News, April 21, 1978.)

## Optional Activity

Laws have been passed against discrimination because of race, color, religion and national origin. As a result there has now been an outcry from many who feel that they have been deprived of their constitutional rights of equal protection because other groups are being given extra consideration.

- Have committees of students research one or more of the following cases that have come to the Supreme Court due to what people believe to be "reverse discrimination."

  - Graig v. Boren (45 U.S.L.W. 4057 December 20, 1976.)

  - Village of Arlington Heights v. Metropolitan Housing Development Corporation (45 U.S.L.W. 4073 January 11, 1977.)

  - Lefkowitz v. C.D.C. Enterprise Ltd. (45 U.S.L.W. 3462, January 10, 1977.)

  - California v. Goldfarb (45 U.S.L.W. 4237, March 2, 1977.)

  - Bakke v. Regents of University of California.

  These questions may be used:

  - How did the Court rule in each of the above cases? What factors helped to decide whether or not the complainant was denied equal protection?

  - Do you think that some groups may now have to be given special consideration to make up for the past inequities? Is this penalizing people for things that they were not directly involved with?

  - In the case of setting different admissions standards to a school for minority groups are we admitting they are inferior or just that they have not had equal opportunity?

  - List in order the reasons you would use to agree for giving special consideration and then the reasons for not giving special consideration.

  - Does ruling in favor of minority groups deny equal protection and is this ever justified?

## Activity 4

- An information bulletin available for citizens of Albany County who want to learn about small claims court is reproduced on pages 95 to 98. The teacher or a committee of students may take this to an appropriate local court official to learn what differences pertain in the community in which the school is located. A visit to small claims court is a valuable learning experience.

- Review with the class: Who may use a Small Claims Court? Against whom may a suit be brought? Where is the location of the Small Claims Court in your area? Review how to start a suit, i.e., filling out the required papers. What will happen when you get to Court? How will the trial proceed? How will you get your money if you win your case?

- Class members may roleplay a small claims court suit, using an incident that has meaning to the students. Some examples:
  - A claim of negligence or defective parts in a bicycle or auto repair job may be entered.
  - An employer of students for part-time work in telephone sales has paid the employees with worthless checks.

- After a class visit to small claims court and/or proceedings, debrief the class. Some appropriate questions include:
  - What preparation should each make for his/her role in order to feel most comfortable in court?
  - What is the role of the judge?
  - What are the rights of the defendant?
  - What are the advantages of having an attorney represent or advise you in court?
  - What evidence is there that it is not necessary to have an attorney's services for Small Claims Court?

- Students may design a similar procedure for dealing with controversy within the school.
  - Identify some grievances for which a student or group of students may seek redress, against other students or a faculty member.
  - Set up the procedures, including procedures for filing of claim, planning of calendar, assignment of personnel (note that in the enclosed information bulletin, there are three justices of the city court who serve on rotation in Small Claims Court. A similar system which includes the Student Organization President, an administrator and one other person could be set up as a panel.)
  - Prepare a similar information bulletin for your school Small Claims Court.
  - Note the emphasis and the advice on settling out of court. Include such a procedure in the school plan.

# THE CITY OF ALBANY GUIDE TO THE SMALL CLAIMS COURT

## WHAT IS SMALL CLAIMS COURT?

Small Claims Court is a place where any individual can go to sue for money. For example, if someone owes you money or has damaged your property, or has charged you too much for a poorly performed service, you can sue them in Small Claims Court. Of course, you should try to settle your dispute before you go to Court. Talk to the other person. If you still cannot agree, you can sue. You do not need a lawyer (although you may have one if you wish). You can do everything on your own. This booklet gives you much of the necessary information.

An important thing to keep in mind is that there are usually two sides to a case. The person who sues must convince the Court that he or she is right. The Court may disagree. This does not mean that the Judge (or Arbitrator) does not believe you. It merely means that the Court's interpretation of the law is different from yours. But it is the Court's opinion that counts.

## WHO MAY USE THE SMALL CLAIMS COURT?

You may use the Small Claims Court if you meet the following requirements:

1. You have a real complaint.
2. You are over 18 years of age. However, if you are under 18, a relative or friend who is over 18 can sue for you.
3. You only sue to recover money, not objects.
4. You sue for $1,000 or less. However, if you have a claim of more than $1,000 but are willing to settle for less than that amount in order to save the cost of a regular court case, you may still sue in Small Claims Court, but $1,000 is the maximum that you can recover.

Keep in mind that only individuals may file a case in Small Claims Court. Corporations, partnerships, insurers and assignees cannot sue, although they can be sued in Small Claims Court.

## WHO MAY BE SUED IN SMALL CLAIMS COURT?

Almost anyone can be sued in the Albany Small Claims Court. The only requirement is that the one sued must live, be regularly employed or have a business within Albany County. A corporation or association must have an office which regularly conducts business within Albany County.

However, there are certain conditions which must be met before you can sue certain parties. For instance:

1. To sue a public utility, you must first request a review of your complaint from the Public Service Commission. It is located in the Empire State Plaza; the telephone number is 474-2121.
2. To sue the City, you must first notify the Corporation Counsel of the City of Albany. The best way to do this is by registered mail (save the receipt). Advise the Counsel of your complaint. The agency has thirty days to review the dispute. If you do not receive an answer in thirty days, you can file your suit.
3. To sue the County, you must call the County Attorney's Office and ask that office for specific instructions.
4. The State of New York or the Federal Government cannot be sued in Small Claims Court.

## HOW AND WHERE TO START YOUR LAWSUIT

To begin your case, you must go to the Albany City Court Clerk's office. It is located on the second floor of City Hall (City Hall is the large brown building directly in front of the State Capitol Building.) You may not file by mail.

If it is impossible for you to go to the Clerk's office between the hours of 9:00 A.M. and 4:00 P.M., another person can file your claim for you. This person must be at least 18 years of age. Of course, it is much better if you can file your claim yourself, since you know the most about your claim.

-See citation on p. 98.

If you have any questions you can call the Clerk's office at 472-5173.

You must bring $2.98 in cash to the Clerk's office to pay for filing your claim and for the cost of mailing a summons to the person you are suing. If you win, this $2.98 will be added to the amount of your judgment.

You do not need to bring your evidence with you to the Clerk's office in order to file your claim. However, you do need to know the exact name and address of the person you are suing (a Post Office box is not a sufficient address). If the person is an individual, you must know either his or her home or business address, preferably both. If you are suing a corporation or business, you msut know the legal name and exact business address of that corporation or business. Sometimes a business does not operate under its legal name. For instance, the legal name of "Royal Cleaners" might be "Royal Cleaners and Launderers, Inc." If you fail to use the legal name when you file your claim, you may find it difficult to collect a judgment if you win your case.

To discover the legal name, you can call the company and request its full legal name. You can also go to the Albany County Clerk's office (in the Albany County Courthouse) and check the company's certificate of incorporation, or its assumed business name certificate as listed in the County Clerk's office. It is also wise to find out the name of the owner of that business and his/her address, if possible. This will aid you if collection problems arise.

You should be prepared to tell the Clerk precisely why you want to sue, and how much you are suing for. There are two forms used by the Clerk to start the suit. The Clerk will fill these out for you. You must sign one of these forms affirming that the information you have given is the truth so far as you know.

When you are at the Clerk's office, you will be given a date to come to court. Small Claims Court meets most weekdays at 9:30 A.M. and on the first and third Mondays of each month at 7:00 P.M. You can choose the session that is most convenient for you to attend.

## WHERE IS THE SMALL CLAIMS COURT?

Small Claims Court meets in the courtroom on the second floor of City Hall. It is next door to the Court Clerk's office where you file your claim.

## WHAT IF YOU ARE SUED?

If you receive a summons to go to Small Claims Court, it means that you are being sued. Someone says that you owe them money. Do not ignore the summons. If you do, you will automatically lose the case.

Talk to the person named on the summons after the phrase "Take notice that _______________ asks judgment..." Find out why this person is suing you. Then try to settle the dispute out of court.

If you cannot reach an agreement with the other person you will have to go to court at the time that is written on the summons. (This is known as the "return date".) If you cannot go at that time and you have a good reason, call the person bringing the suit and try to arrange a more convenient time. Ask him/her to call the Clerk of the Court and request a change in the hearing date. If the other party refuses to change the hearing date, then you may call the Clerk yourself. Explain your problem and the Clerk will discuss with the Court your request for a change of date. You will be notified of the Court's decision.

Generally, a jury is not used in Small Claims Court. However, if you are being sued, you are entitled to a jury trial if you want one. If you want a jury, you must notify the Clerk of the Court, in writing, on or before the return date. You will have to pay a $15.00 fee and "post" $50.00. The $50.00 will be returned to you after the trial, if you win your case. However, if you lose your case, additional court costs may be added to the judgment against you. The conditions are imposed to show the Court that your request for a jury is made after serious thought and in good faith.

## WHAT IF YOU SETTLE OUT OF COURT?

Sometimes just the filing of a Small Claims case makes both parties ready to compromise and settle the dispute out of court. If a satisfactory agreement is reached and you want to make sure that the other party will not change his/her mind, write the agreement down, have both of you sign it, and file it with the Court Clerk.

## HOW TO PREPARE FOR TRIAL

If you have been unable to settle the dispute, gather together all the proof of your claim. Your proof can be a bill, a receipt, items that were damaged, a photograph or anything else which proves what you are trying to say. Your proof must at least show that:

1. The person you are suing owes you money.

2. He or she owes you the amount of money you are suing for.

If you are being sued, you must show that:

1. You owe nothing to the person who is suing you.

2. You owe less than he or she has claimed.

3. He or she owes you money. (See the counterclaims sections of this booklet.)

Whether you are suing or being sued, you may bring witnesses to court who are willing to affirm that what you say is true. If the witness cannot come to court on the day of the trial, have him or her make a written statement of what you want him or her to say. Then go with the witness and the statement to a notary public. Your witness must affirm the truth of his or her statement before the notary, who will then notarize it for a small fee (not to exceed 25¢). The judge may accept this statement as evidence in place of the witness' testimony. However, since the judge is not required to accept the statement as evidence, it is much better to have your witness in court. Also, it is a good idea to practice what your witness is to say, since your opponent will have a chance to ask him/her questions. If a witness refuses to come to court, you may ask the Court Clerk to send out a subpoena ordering that person to testify.

Try to bring at least some evidence to court. It makes your case much stronger. Make a list of what you want to prove in court, and practice what you plan to say. Go over it carefully. Recheck it the day before you go to Court.

On the day before you go to Court, call your witnesses and remind them of your trial. Better yet, arrange to meet and go to court together. This way they will not forget to come.

## COUNTERCLAIMS

Sometimes the person you are suing may claim that you owe him or her money. This is called a counterclaim. You may be sent a legal notice of the counterclaim or the other person may not bring it up until the trial. If you think that the person you are suing may raise such a claim and you intend to oppose it, be prepared with evidence to support your position.

## YOUR DAY (OR NIGHT) IN COURT

At the start of a Small Claims Court session, the list of cases for that session will be read aloud. If you are not present when the list is read, your case may be dismissed. If this happens, you will have to refile your claim. (Generally, you can refile only once.)

When your case is called you will go before the judge. At that time he or she may ask whether you would prefer having your case heard before him or her or before an arbitrator. The difference is slight. An arbitrator is an experienced lawyer who hears some cases in order to speed up the Small Claims process. The principal difference between a case heard by a judge and a case heard by an arbitrator is that the arbitrator's decision is final. There can be no appeal. Note that arbitration can only be used if both parties agree to it.

Whether you choose a judge or an arbitrator, you will have a chance to tell your story. Be calm and just give the facts. Remember that there are penalties for perjury if you do not tell the truth as you know it. The person opposing your position will also be given a chance to tell his or her side of the story. Both sides may use witnesses and evidence to support their stories.

After the judge or arbitrator hears both sides of the case he or she will make a decision. You may be informed of it immediately, or the judge or arbitrator may reserve decision and inform you of it in writing at a later date. If you win, you are entitled to collect the amount of the judgment from the other person. The judge or arbitrator may decide to have the person pay you in small amounts each week or each month to make it easier for him or her to pay you.

## APPEAL

Either party can appeal the decision of a judge, but the decision of an arbitrator cannot be appealed. However, it should be noted that it is almost impossible to win an appeal from Small Claims Court since the only ground for appeal is that "substantial justice" has not been done. Because a great deal of clear evidence is required to convince an Appeals Court that "substantial justice" has not been done, successful appeals have been very rare.

## COLLECTION

If the person you sued does not pay the money that he or she has been told to pay, there are several things you can do to collect your judgment. An information subpoena can be used to determine the location of assets. A property execution can be used to seize property and sell it at public auction. An income execution can be used to garnish wages. Of course, if the judgment debtor has no property, it cannot be seized. Similarly, if he or she is unemployed or makes less than $85 per week, wages cannot be garnisheed. In these cases judgments are often uncollectable and this possibility should be considered before you spend the time and money involved in a lawsuit. If you decide to use an information subpoena, a property execution, or an income execution to collect your money, contact the Marshal's office. Although there is a $10 fee for the Marshal's services, you can recover an additional $10 from the other person if and when your judgment is collected.

# THE CITY OF ALBANY
# GUIDE TO THE SMALL CLAIMS COURT

Justices of the City Court of Albany

Morton M. Z. Lynn
Edwin J. Tobin
Leonard A. Weiss

Prepared by:
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D

# VALUES AND BELIEFS

## Operational Definition

Values are subjective, cultural and personal judgments of what is good and desirable. They are learned products of and transmitted by a society's religious, social, educational, economic and political institutions. They become the basis for rationalizing personal decisions and activities. Among the most prized American values are human dignity, freedom, individuality, equality of opportunity, productivity, upward social economic mobility and due process of law.

## Knowledge Objectives

1. *to identify those values which are taught through religious, social, educational, economic, and political institutions in the mainstream of American society.*
2. *to recognize individual reactions of acceptance or rejection of specific mainstream values and to explain these reactions.*
3. *to define, interpret, and illustrate those values which the individual either demonstrates or fails to demonstrate in practice.*

## Skill Objectives

- *to identify the value positions of different groups of people and to recognize situations in which value conflicts may occur.*
- *to support and participate honestly in free and open communication with others.*
- *to evaluate carefully communications related to civic matters and to form opinions concerning them independently of others.*
- *to weigh alternatives and consequences carefully before a decision is made.*
- *to keep or change one's position in the light of rational considerations.*

# Activities to Develop the Knowledge Objectives

## Knowledge Objective 1

*to identify those values which are taught through religious, social, educational, economic and political institutions in the mainstream of American society.*

### Activity 1

- Have students identify those sections of the poem with which they agree.

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(From Making Value Judgments: Decisions for Today by Carl A. Elder. Columbus, Ohio. Charles E. Merrill Publishing Co., A Bell & Howell Company. Copyright 1972.)

- The students may now reread the poem in the role of an adult who frequently disagrees with him/her and identify the expressions with which that person would disagree.

Related Understandings for these activities:

Grade 7: THE MATERIAL THINGS INCLUDED IN THE DISPLAY OF WEALTH BY THOSE WHO HAD BUILT VAST FORTUNES HAD GREAT INFLUENCE ON THE VALUES OF THE REST OF THE PEOPLE.

Grade 8: ALL AMERICAN CITIZENS, WOMEN AS WELL AS MEN, HAVE RESPONSIBILITIES AS WELL AS RIGHTS. (Note: Students may amend this to reflect age differences, economic status, etc.)

CHANGES IN THE UNITED STATES LANDSCAPE REFLECTED SOCIAL AND ECONOMIC TRENDS OF THE FIFTIES AND SIXTIES.

Understandings already introduced at the lower grades:

Kindergarten: THE PLEDGE OF ALLEGIANCE IS A COMMITMENT OF LOYALTY AND DEVOTION TO OUR COUNTRY.

Grade 2: RELIGIOUS GROUPS PLAY AN IMPORTANT PART IN COMMUNITY LIFE.

THERE ARE A NUMBER OF ORGANIZATIONS THAT PERFORM USEFUL SERVICES FOR COMMUNITIES.

Grade 4: MUCH OF OUR OLD WORLD HERITAGE AND MANY OF OUR TRADITIONS DATE BACK TO OUR COLONIAL - REVOLUTIONARY PERIOD.

DUE TO ITS GREAT NATURAL WEALTH, INVENTIONS, USE OF RESEARCH, ITS FINE EDUCATIONAL SYSTEM, THE

ABUNDANCE OF SKILLED WORKERS AND ITS ECONOMIC SYSTEM, THE UNITED STATES HAS BECOME THE GREATEST INDUSTRIAL NATION IN THE WORLD.

AMERICAN FREEDOMS, WHICH ARE EITHER SOCIAL, RELIGIOUS, ECONOMIC AND/OR POLITICAL IN NATURE, HAVE EVOLVED THROUGH THE YEARS AS WE HAVE WORKED TOWARD TRUE EQUALITY AMONG ALL PEOPLE.

Grade 5: THE SYSTEM OF FREE PUBLIC EDUCATION HAS BEEN VERY IMPORTANT IN THE DEVELOPMENT OF AN AMERICAN CULTURE.

RELIGION PLAYS AN IMPORTANT PART IN AMERICAN LIFE.

- Explain the differences between the two readings of the poems.
- Encourage students to write their own poems, beginning with the same first two lines; in pairs or small groups, students can discuss the values that their poems identify. How do these values compare with the list of American mainstream values used in the previous activities?

**Activity 2**

- Using newspapers, magazines, and television experiences as sources, the class can develop a list of values that may be considered basic to American democratic society. The following list may be reviewed and edited by the class in developing a class list:
  - intelligence; loyalty; dignity; freedom; opportunity; love; education; family; privacy; justice; work; patriotism; money; individuality; competition; ambition; efficiency; responsibility; creativity
- Each student may then rank these values against each other by placing each on a continuum.

  How Important to the American People? (Note: Stress importance to American society, not to the individual student in this exercise.)

  Very Important    Important    Not Very Important    Unimportant

- From the student continuums, make a single class continuum.
- Assign students to committees representing each of the following groups of institutions: religious; social; educational; economic; political. Have them list several examples of institutions in their assigned category. Each committee can review the values listed as "very important" and "important" on the class continuum. Identify those which are taught by institutions within the committee's grouping. List how each is taught. (Note: The reverse assignment, that is, identifying the "not very important" and "unimportant" values within the committee's institutions' jurisdictions and how they are taught can be a very revealing activity in terms of the values attached to each of these institutions by the public. This can, however, be an emotion-laden topic for discussion.)

## Knowledge Objective 2

*to recognize individual reactions of acceptance or rejection of specific mainstream values and to explain these reactions.*

Related Understandings for these activities:

Grade 7: LIFE IN A CORE CITY LIKE NEW YORK CONTINUES TO BE ATTRACTIVE TO MANY PEOPLE.

THE MOVEMENT OF PEOPLE FARTHER AND FARTHER AWAY FROM THE INNER CORE OF THE CITY HAS CREATED A NEW LIFE IN SUBURBIA AND EXURBIA.

Understandings already introduced at lower grades:

Kindergarten: FAMILY JOBS AND RESPONSIBILITIES ARE DIVIDED AMONG FAMILY MEMBERS.

Grade 2: THE PEOPLE WHO LIVE IN OUR COMMUNITIES REPRESENT MANY AND VARIED RACIAL AND ETHNIC GROUPS.

Grade 5: THE AMERICAN PEOPLE ARE OF VARIED NATIONAL, CULTURAL, RACIAL, AND RELIGIOUS BACKGROUNDS.

A DYNAMIC CHARACTERISTIC OF THE AMERICAN PEOPLE IS THAT THEY HAVE ALWAYS BEEN MOBILE.

### Activity 1

- Without informing the class in any way that you are doing so, divide the class into two groups that you can easily distinguish, e.g.,

  - blondes and redheads vs. brunettes
  - those wearing glasses vs. contact lenses and no eye corrections
  - first names or surnames ending with a vowel

  Do not use sex or color as the criterion. The groups need not be equal, but the smaller group should not be less than 1/3 of the class.

- Choose one of the groups against which you will discriminate. Strictly enforce every rule with members of the group, while not holding other group members accountable. Continue this until someone in the class realizes what is happening and begins to question. At first ignore it and continue until more students begin to become upset and then stop lesson to discuss what was happening. (Note: allow enough time to discuss this before the class period ends!)

  - Ask students what was being done.

  - Have students from each group tell how they felt by the way they were treated.

  - What made the discriminated group feel most uncomfortable?

  - Did any of the students want to do something to punish the teacher for the discrimination? If so, what?

  - How does this feeling apply to situations in which minority groups are discriminated against?

- Do students think there might be instances when minorities would be justified in acting in unlawful ways? What other alternatives are open to them?

Note: A number of student materials were produced in the late 1960's and early 1970's concerning the effects of discrimination upon its victims. The game "Ghetto" has been used by many teachers for this purpose. The readings included in the AEP student leaflet, *Pride and Power: From Watts to Mexico City*, by Raymond Giles are still pertinent, and could be used in conjunction with this activity.

## Activity 2

- Give students an opportunity to study the cartoon below. To differentiate between values which are "taught," that is, imposed by the curriculum and by teacher attitudes upon students, and those which are "learned," as a result of interaction with others, and experiences of powerlessness and deprivation, ask students to identify those values the teacher thinks he/she is teaching, according to the cartoon.

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- In class committees prepare two lists of values, those which would be learned by experience in Innercity Public School and those which would be learned in Suburban Heights Public School.

- What attempts have federal, state, and local governments made, to try to equalize opportunities in schools?

- In 1967, Alice Miel wrote about a study of what the school in "New Village" did not teach about human differences. She titled this case study of suburban schools, *The Shortchanged Children of Suburbia.** This title might be used as a basis for a student discussion or writing project concerning the study of the cartoon.

### Knowledge Objective 3

*to define, interpret and illustrate those values which the individual either demonstrates or fails to demonstrate in practice.*

#### Activity 1

- Using the general format for dealing with a moral dilemma (see pp. 58-59) the class may deal with one of the dilemmas given below.

Dilemma 1: A class is taking a very difficult test. The teacher leaves the room. George, the brightest student in the class and most respected by the teacher is asked by another student for an answer. George does not know the answer. Some students in the class have "crib sheets." The teacher comes back into the room. Some of the students divert the teacher's attention. George finds a crib sheet on his desk.

- Should George use the "crib sheet?"

Related Understandings for these activities:

Grade 7: IN ADDITION TO BELONGING TO AND WORKING FOR A POLITICAL PARTY, A CITIZEN HAS DUTIES WHICH ARE OUTSIDE THE REALM OF THE PARTY.

Grade 8: ALL AMERICAN CITIZENS, WOMEN AND WELL AS MEN, HAVE RESPONSIBILITIES AS WELL AS RIGHTS.

Understandings already introduced at lower grades:

Kindergarten: THERE ARE CERTAIN RULES AND LAWS WHICH MUST BE OBSERVED FOR THE COMMON GOOD.

Grade 3: GOOD CITIZENS RESPECT THE RIGHTS OF OTHERS.

Alternative questions:

- If George does not use the "crib sheet" and fails the test should he tell the teacher that other students had "crib sheets?"

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**The Shortchanged Children of Suburbia* - What Schools Don't Teach About Human Differences and What Can Be Done About It by Alice Miel with Edwin Kiester, Jr. Institute of Human Relations Press. 1967.

- If George thinks that he cannot pass the test and he must pass it to maintain his average to keep his scholarship, should he use the "crib sheet?"

- Should the students have given George the "crib sheet?"

Dilemma 2: Bob and Joe are best friends. A teacher's wallet has been stolen. Bob and Joe were the only ones near the wallet. Joe knows Bob did it. They are both called into the principal's office and each denies that he took the wallet. They are told they will both be suspended if the truth is not told.

- Should Joe keep quiet or tell on Bob?

Alternative Questions:

- If Bob and Joe were brothers instead of friends would that make a difference?

- If Bob is found to be the guilty one he will be expelled from school. Should Joe tell a story about seeing "a student who did not look like anyone in this class" enter the room and search the teacher's desk?

- If Bob and Joe were strangers instead of friends would that make a difference?

Dilemma 3: Mary could not find her diamond ring. She searched everywhere to no avail. The ring was insured and she called the insurance company to report the missing ring. They agreed to pay her $2,000. This happened to be the cost of carpeting that she wanted to order. The insurance agent called and said he would deliver the check the next morning. That evening Mary's daughter wanted to borrow something from the jewelry box. While Mary was looking in the box, the missing ring popped out from under the lining.

- Should Mary tell anyone she found the ring?

Alternative Questions:

- If Mary had already ordered the carpeting and needed the money to pay for it should she take the money?

- If she did not find the ring until after she had received the money and paid for the carpeting, what should she do?

## Activity 2

- Have students reassess their positions after the dilemma discussion. If a continuum has been used, the new position can be compared with the pre-discussion position.

  - Each student may identify the statements made or the circumstances which caused the changed in position. Note particularly, whether a number of students taking opposite stances, or leadership qualities of the opponents affected the choice of position.

  - Identify the values associated with reasons for the change in position. Are the same values associated with the process of "getting on the bandwagon," that is, voter shifts to the person who appears more likely to win an election?

- A written assignment may include the identification of a dilemma from a news source with a description of the incident, a listing of the choices facing those involved, and some questions for those facing the dilemma. Student committees can then identify the values which would be in dispute in the dilemma.

# E PARTICIPATION

## Operational Definition

Participation is the essence of democracy. Democracy may be defined as self-government by informed citizens who engage in decisionmaking by various modes of direct or indirect, formal or informal, influence at all levels of government. Democratic participation in social, economic, and political areas involves determining goals and means, as well as execution and accountability. One of the best ways to insure government's responsiveness is by joining with other citizens and becoming an active and vocal member of a community. The more participation, the more effective the democracy.

## Knowledge Objectives

1. *to recognize, interpret and illustrate the essential need for an informed and involved citizenry in a democratic society.*

2. *to identify the collective groups and/or interests that exert influence on governmental personnel and their actions.*

3. *to identify and illustrate the direct and indirect, formal and informal processes by which a citizen or group of citizens can effect civic improvement and influence governmental actions.*

4. *to identify and illustrate the ways by which the individual can use the political system to satisfy his/her legitimate needs.*

## Skill Objectives

- *to keep informed on important social matters and to recognize alternative viewpoints.*

- *to identify issues in which possible conflict among values exist.*

- *to weigh alternatives and consequences carefully before making a decision.*

- *to evaluate alternatives in the light of one's basic values.*

- *to act responsibly and to justify one's actions and opinions.*

- *to analyze graphics in terms of the probable goals of the people depicted and the possible consequences of the methods being used to accomplish these goals.*

## Activities to Develop the Knowledge Objectives

### Knowledge Objective 1

*to recognize, interpret and illustrate the essential need for an informed and involved citizenry in a democratic society.*

Related Understandings for these activities:

Grade 7: THE GOVERNMENT OF NEW YORK STATE CONTROLS AND SUPERVISES ITS PUBLIC EDUCATION UNDER A CENTRALIZED STRUCTURE WHICH RECEIVES ITS DIRECTION FROM THE CONSTITUTION AND LAWS OF THE STATE.

Grade 8: KNOWLEDGE OF THE CONSTITUTION OF THE UNITED STATES IS NEEDED AS A BASIC FOUNDATION FOR UNDERSTANDING THE FUNCTIONING OF THE FEDERAL GOVERNMENT.

Understandings already introduced at lower grades:

Kindergarten: ALL CHILDREN ATTEND SCHOOL IN OUR SOCIETY.

Grade 1: VILLAGE, CITY, AND SUBURBAN NEIGHBORHOODS PROVIDE NEEDED SERVICES FOR FAMILIES.

Grade 2: THERE ARE A NUMBER OF ORGANIZATIONS THAT PERFORM USEFUL SERVICES FOR COMMUNITIES.

### Activity 1

Use the chart on the next page for these steps:

- Ask each student to complete a copy of the chart.
- Discuss the first five items on the completed chart, placing emphasis upon the difference in results with and without the information needed to complete the action situation.
- Have the students focus in particular upon the sixth entry on the chart, "Citizen Entering a Voting Booth."
    - Compile on the chalkboard, as the first column of a two-column model, a list of all the different "Kinds of Information Needed" as suggested by the students. Have the class rank the list by priority.
    - In the second column of the model on the board, list opposite each item in the first column the best "Sources of Needed Information" for that item as suggested by the students. Have the class evaluate each source listed, as to comprehensiveness, availability and ease of use.
    - Have the students discuss the possible differences in results with and without the Kinds of Information Needed previously listed on the board.
- Have the students consider any personal situations in which they have voted — class, club, or similar elections.
    - Did you have the "Kinds of Information Needed?"
    - Was the result with (or without) the needed information similar to any of the results proposed when discussing the last item on the chart? Why or why not?

| PERSON-ACTION SITUATION | KINDS OF INFORMATION NEEDED | SOURCES OF NEEDED INFORMATION | RESULTS WITH NEEDED INFORMATION AVAILABLE | RESULTS WITHOUT NEEDED INFORMATION AVAILABLE |
|---|---|---|---|---|
| HOMEMAKER GOING GROCERY SHOPPING | | | | |
| STUDENT PREPARING FOR FINAL EXAM | | | | |
| EMPLOYER HIRING WORKER | | | | |
| POLICEMAN MAKING AN ARREST | | | | |
| LEGISLATOR INTRODUCING A BILL | | | | |
| CITIZEN ENTERING A VOTING BOOTH | | | | |

Activity 2

- Below is a list of some government agencies. Identify the level of government and the purpose of each agency.

  - Civil Aeronautics Board
  - Federal Power Commission
  - Interstate Commerce Commission
  - Food and Drug Administration
  - Public Service Commission
  - Civil Service Commission

- Have the students read both articles on page 110 and discuss the following:
  - What is the difference between articles 1 and article 2? What article gives you more information? Why?
  - Do the articles give you enough information for you to determine what needs to be done?
  - Article 1 says that a bill to force agencies to finance consumer group participation in the decision-making process was killed by the Senate Judiciary Committee. Do you think people can be forced to participate? What methods would you suggest to get consumer group participation?
  - Article 2 at the end blames Supreme Court Decisions for being a barrier to citizen participation. Why might the Supreme Court make it difficult for citizens to obtain judicial review of allegedly unlawful government action?
  - Locate other examples of government situations that might be conflict of interest.

## Article 3

### *VOTERS VETO SCHOOL SALES*

*Plainedge—Plainedge School District residents overwhelmingly defeated yesterday propositions to sell two schools to a developer who contemplated building one-story homes at one site and apartment dwellings at the other.*

*Proposition 1 to sell Southedge Junior High School for $608,000 to Holiday Management Associates was defeated 965 to 437. Proposition 2, which would have sold the Picken Elementary School to Holiday for $400,000, was defeated 1,149 to 245.*

*Southedge was closed June 30 and would have been used by Holiday to construct 38* private *homes on the 10-acre property. Picken, which was closed two years ago, is 7.6 acres and would have been used by Holiday to build apartments or condiminiums. Two acres of the property would have been transferred to the Town of Oyster Bay for a park and recreational activities.*

*The schools were shut by the district to save costs and because of dwindling enrollment.*

(Newsday, August 3, 1977.)

- Have students locate a newspaper article where local citizens have voted for or against something in their locality. If none are available, use article 3 on page 111.
  - Discuss the reasons the people might have voted the way they did. Are the reasons factual or emotional?
  - Some possible areas to explore from sample article:

    More homes or apartments would increase school population again.

    Apartments would disrupt the single family home community.

    A park in the area would cause too much traffic.
  - What information should the residents have found out before they voted?
  - Possible information needed in the sample article:

    How much is it costing the district to hold this property and how is it affecting the tax rate?

    How would the building of homes or apartments affect the tax rate?

    Does the school board have any other interested buyers? If so what are the advantages and disadvantages of them?

## Activity 3

John told his friends he would meet them at the beach at noon. He missed the bus. The next bus would not come for an hour. John would be late. He decided to hitch-hike. He started walking backwards in the street. He pointed his thumb in the direction he wanted to go. Soon a police car came along and stopped. The police officer placed John under arrest. John told the policeman he did not know that he had done anything wrong. The police officer told John it was against the law to hitch-hike. The policeman took John to the station house.

- In small groups students can assess the action of the policeman: was he right to arrest John?
- On an overhead transparency or on the chalkboard print "Ignorance of the law is no excuse." Ask the students why this principle is necessary for the good of society.
- Review the group opinions concerning the policman's actions. How might the principle, ignorance of the law is no excuse, change one's views concerning the case?

## Activity 4

"Ethiopian Forces Launch Major Drive on Eritrean Rebels"

"Israeli Forces Invade Lebanon"

"Arab Summit Conference to Discuss Oil Prices"

"Tension Increases Between China and USSR"

"Red Brigades Intimidates Italians"

"50 Black Civilians Killed in Crossfire in Rhodesian War"

"Foreigners Buying Houston Properties"

"Soviet Judge Curbs Dissident's Defense"

"U.S. Firms Banned From European Fibers Cartel"

- Have students classify the headlines above or a similar list collected from a contemporary newspaper, as referring to news that is primarily economic, political, or social in nature. In subsequent discussion, note situations which might be ostensibly political in nature, but have economic or social causes.

- Students may rank the headlines in order of importance to the United States. What types of articles appear most important? What reasons can be given for this ranking?

- On which of the headlines, if any, would comments by the President of the United States or members of the Administration be appropriate? Students should give reasons for their selection or rejection of each of the stories.

## Activity 5

- In each of the headlines above, why is it important for a citizen who is a voter in local, state, and national elections, to be informed and to be able to infer the role and actions of his/her government leaders in these situations.

  (Refer back to Activity 1 on page 17 (the brain).

  Have students draw a "brain" representing their possible involvements with one or more above, to show why the individual is concerned with these seemingly distant situations.

- Have the class make a list of the kinds of information that an informed citizen must have.

## Knowledge Objective 2

*to identify the collective groups and/or interests that exert influence on governmental personnel and their actions.*

### Activity 1

- On page 115 are a series of magazine subscription coupons. Have students:
    - read the information and identify the audience, market, or groups of people which the coupons are designed to interest, that is, who are likely buyers.
- Discuss the relationship between these audiences and the existence of formal collective groups in your locality designed to present their aims or interests to government to protect or put forward their interests.
    - Do these groups bring pressure? At what level of government?

Special Note: Lobbyists are often portrayed in a negative posture. The students should be encouraged to investigate the positive role of lobbyist (providing research and background materials for our legislations) and the legal restraints within which they must operate (must be registered, etc.).

Related Understandings for these activities:

Grade 7: THE CITIZEN'S BEST WAY OF GETTING THE GOVERNMENT TO RESPOND TO HIS WISHES IS BY JOINING WITH OTHER CITIZENS AND BECOMING ACTIVE AND VOCAL MEMBERS OF A POLITICAL PARTY.

A POLITICAL PARTY WILL PERFORM ITS FUNCTIONS ONLY AS WELL AS THE INTEREST OF THE PEOPLE DEMANDS AND THE QUALITY OF ITS LEADERSHIP PERMITS.

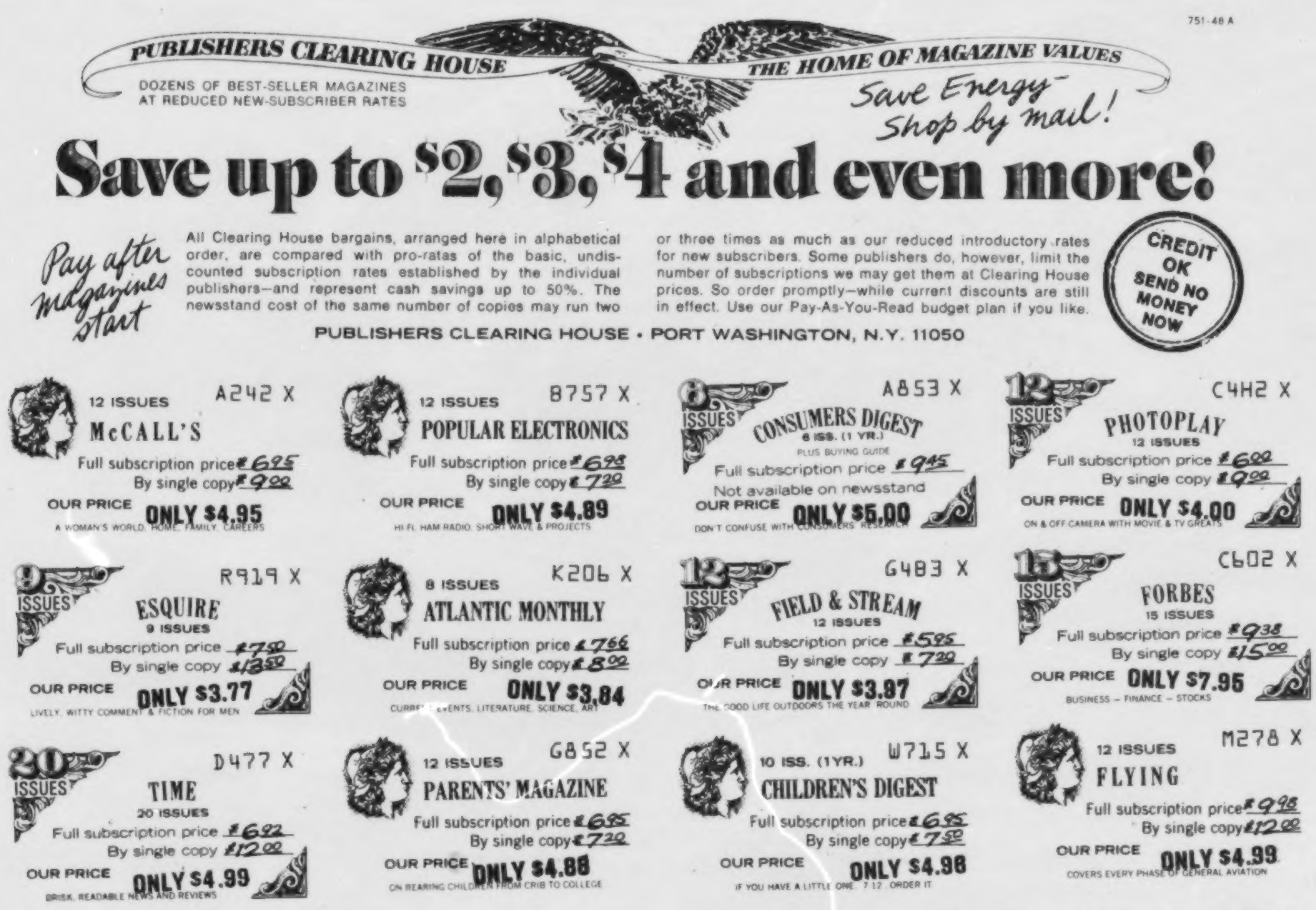
IN ADDITION TO BELONGING TO AND WORKING FOR A POLITICAL PARTY, A CITIZEN HAD DUTIES WHICH ARE OUTSIDE OF THE REALM OF THE PARTY.

Grade 8: ALL AMERICAN CITIZENS, WOMEN AS WELL AS MEN, HAVE RESPONSIBILITIES AS WELL AS RIGHTS.

Understandings already introduced at lower grades:

Grade 2: A COMMUNITY IS A GROUP OF PEOPLE LIVING IN A CERTAIN AREA WHO HAVE A NUMBER OF INTERESTS IN COMMON.

THERE ARE A NUMBER OF ORGANIZATIONS THAT PERFORM USEFUL SERVICES FOR COMMUNITIES.



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Note: This advertising material was distributed prior to 1977. These are not current prices.

(From - Publishers Clearing House, 382 Channel Drive, Port Washington, New York 11050)

Activity 2

- Using the chart on page 117, students can match the lobby organization listed below with the aims and goals.

Groups (Lobbies)

1) American Bar Association; Lobbyist - Robert D. Evans, Wash/D.C., Filed 4/4/75
2) American Frozen Food Institute; Lobbyist - (none listed), Wash/D.C., Filed 4/25/75
3) Animal Health Institute; Lobbyist - Frederick A. Kessinger, Filed 4/4/75
4) Avis Rent A Car Systems, Garden City; Lobbyist - J. Woodron Thomas Assoc., Inc., Wash/D.C., Filed 4/17/75
5) G.D. Searle and Company, Skokie; Lobbyist - Timmons and Co., Inc., Wash/D.C., Filed 4/22/75
6) Gulf Oil Corporation, Pitt., Pa.; Lobbyist - Brenda Joyce, Wash/D.C., Filed 4/22/75
7) Holiday Inns, Memphis, Tenn., Filed 4/3/75
8) National Education Assoc., Wash/D.C.; Lobbyist - Roy A. Archibald, Burlingame, Calif., Filed 4/14/75
9) New York Stock Exchange, NYC; Lobbyist - Gordon L. Calert, Wash/D.C., Filed 4/21/75
10) March for Life, Wash/D.C., Filed 4/22/75
11) Navajo Division of Education, Window Rock Ariz.; Lobbyist - James R. Leonard Assoc. Inc., Wash/D.C., Filed 5/21/75
12) National Assoc. for Milk Marketing Reform, Wash/D.C., Lobbyist - Jack Pearce, Filed 5/21/75
13) American Assoc. for Independent News Distributors, San Francisco, Calif.; Lobbyist - Jerome P. Waldie, Filed 5/9/75
14) Council for a Livable World, Wash/D.C.; Lobbyist - Carl March, Filed 5/12/75

*AIMS AND GOALS - LEGISLATIVE INTEREST*

*(a) Matters of general interest to the legal profession.*

*(b) Consumer legislation, farm labor legislation, agricultural bargaining legislation, marketing order legislation, FLSA amendments, and packaging and label legislation.*

*(c) Legislation on arms control and disarmament; fiscal year 1976 authorization and appropriations bills for DOD, State, ABC. ACDA.*

*(d) Opposition to exemption from anti-trust laws sought by newspaper publishers.*

(Note: this list is continued on page 118)

(From 1975 Congressional Quarterly, July 19, 1975.)

| AIMS AND GOALS | NAME OF LOBBY |
|---|---|
| a) | |
| b) | |
| c) | |
| d) | |
| e) | |
| f) | |
| g) | |
| h) | |
| i) | |
| j) | |
| k) | |
| l) | |
| m) | |
| n) | |

(e) *Amendments to the Federal Food, Drug and Cosmetic Act and other legislation affecting producers of animal health and nutrition products.*

(f) *Revision of Capper-Volstead Act, Agricultural Marketing Act of 1937, Agricultural Act of 1949, Clayton & Sherman Acts, in such a way as to bring about a more open and competitive federal milk marketing order system.*

(g) *Bills pending before Congress relating to public education.*

(h) *Client wishes to recommend increasing the Bureau of Indian Affairs Appropriation in order to provide relief to school districts in Arizona which are in financial difficulties.*

(i) *Any legislation pertaining to the car and truck renting and leasing industry.*

(j) *Legislative interests concern all matters connected with the pharmaceutical industry in general; including bills relating to development, production and marketing of prescriptive drugs, to medical devices, and to health insurance; and any relevant tax legislation.*

(k) *Any and all legislation on energy aspects in which the oil and gas industry might be interested.*

(l) *Legislation relating to commerce and tourism.*
*Lobbyist - DK Consultants, Inc., Washington, D.C., filed 4/22/75*

(m) *In favor of a mandatory human life amendment... .*

(n) *Amendments to federal securities laws, proposals for regulation of foreign investment in the United States and exchanges in tax laws affecting investment and securities transactions.*

- Students may draw up a list of their own interest groups, and write the aims and goals for which they would like to have a legislative action, at school, school board, community, State, or federal level.

### Activity 3

- Use the case study of the Village of Suburbia on page 121.
- Distribute copies of the map and of the description. Have some informal discussion of what students might guess about life in different parts of suburbia.

- Organize students into parent groups, representing each neighborhood. Have them decide whether they are for or against the plan, considering each age group in reaching their decision. Each group should identify several reasons for their decision.

- On chalkboard or overhead projector, set up a grid:

| For | | Against | |
|---|---|---|---|
| Group | Reasons | Group | Reasons |
| Neighborhood 1 | | | |
| Etc. | | | |

- The school board is set to meet in two weeks to vote on the plan.

  - Have each parent group determine actions they will take, to influence that vote. For each alternative, the group should identify some possible consequences of that action, and decide, on the basis of those consequences.

  - The class could role play the Board of Education meeting. Ask your principal to be the President of the Board!

- The school board votes to accept the plan.

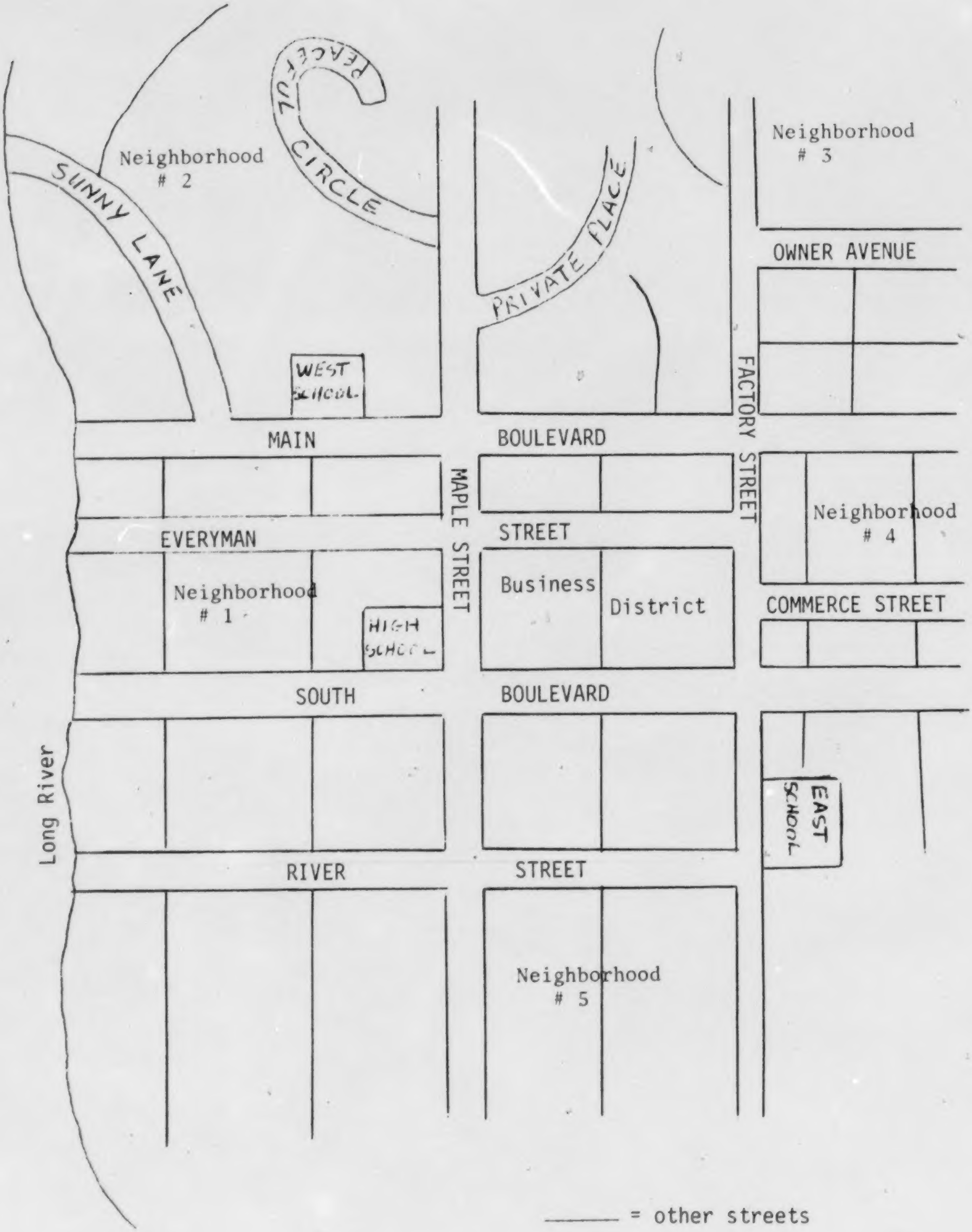
  Each parent group should meet to consider next steps.

  - Those opposed to the plan will try to bring about change.
  - Those supporting the plan will try to prevent change.
  - Consider appeals to local, state, and Federal authorities and courts; would the group address each of these persons or institutions?
  - Consider boycotts, demonstrations, petitions, visits to the State Capitol, etc.

- The class can then consider the viability of each plan of actions:
  - effectiveness
  - legality
  - time and money cost: can the parents group afford it?

- As a concluding activity, students might interview school system personnel, concerning the integration history in that community, and the involvement of parents and other citizens in bringing about any change. (Other issues: closing of an elementary school due to decreasing enrollment; budget cuts which curtail the athletic program.)

The Village of Suburbia



——— = other streets

N ↑

## THIS IS SUBURBIA, U.S.A.

In Suburbia School District, the elementary school enrollment for the past year was as follows:

| | Total enrollment | No. of White Students | No. of Minority Students |
|---|---|---|---|
| West School | 300 | 275 | 25 |
| East School | 240 | 40 | 200 |

The State Department of Public Instruction, on the basis of federal civil rights legislation, ordered the school district to work out a plan to integrate the school district, that is, provide for a better balance of white and minority students in each school.

The school board submitted a plan concerning the use of the two schools:

> All students in grades K-2 would go to West School, regardless of where they lived.
>
> All students in grades 3-6 would go to East School, regardless of where they lived.
>
> Students, K-2, who lived more than 1 mile from West School would be bussed to the school.
>
> Students, grades 3-6, who lived more than 1 1/2 miles from East School would be bussed to the school.
>
> Children with physical handicapping conditions would be transported to the school in which they belonged, grade-wise.

Knowledge Objective 3

*to identify and illustrate the direct and indirect, formal and informal, processes by which a citizen or group of citizens can effect civic improvement and influence governmental actions.*

**Activity 1**

- Use the three letters written to the President of a local School Board on page 124. Students should read and analyze each as follows, in the following manner:
  - Identify the aims and/or goals of the three writers and the similarities and differences of views presented in each letter, i.e., what does each group want or expect? How are they alike and different? What do all have in common?
  - Identify and analyze the interrelationship between and among the methods employed by the writers and the goals identified in the previous step: i.e., letter writing, attendance at public meetings, advertising on radio, serving as volunteers, partipating in proposed demonstration, voting, sending newsletters, running counter-opposing candidates or withdrawing support.
  - Analyze and discuss the likely impact each letter would have on the actions of the board and factors that might influence either a change in the budget proposal or retention of the budget as proposed, i.e., number of people each letter might represent in the district, the effectiveness of the methods employed by each group and the make-up or organization of the board itself.

Related Understandings for these activities:

Grade 7: THE ORGANIZATION OF NEW YORK STATE GOVERNMENT, AS WELL AS THE UNITED STATES GOVERNMENT IS DESCRIBED IN A WRITTEN CONSTITUTION.

Grade 7: THE GOVERNMENT OF NEW YORK STATE CONTROLS AND SUPERVISES ITS PUBLIC EDUCATION UNDER A CENTRALIZED STRUCTURE WHICH RECEIVES ITS DIRECTION FROM THE CONSTITUTION AND LAWS OF THE STATE.

Grade 8: ALL AMERICAN CITIZENS, WOMEN AS WELL AS MEN, HAVE RESPONSIBILITIES AS WELL AS RIGHTS.

Understandings already introduced at lower grades:

Kindergarten: ALL CHILDREN ATTEND SCHOOL IN OUR SOCIETY.

Grade 2: THERE ARE A NUMBER OF ORGANIZATIONS THAT PERFORM USEFUL SERVICES FOR COMMUNITIES.

Grade 3: OUR GOVERNMENT HAS THREE SEPARATE BRANCHES TO PERFORM THE THREE MAJOR TASKS OF GOVERNMENT.

- Discuss the methods or techniques which the President of the Board could employ to balance or meet the desires or goals of the letter writers, or to insure a fair balance and accurate statement of its past decisions. For example, how might the president better inform the community of its difficulties and its reasons for adopting the proposed budget? What kind of information should the community have? What are the best or most effective ways to communicate that information?

- In what ways did the board demonstrate its willingness to deal with all groups? How might the board maintain the quality of education and work within the financial limits of its community? Why is it important that the board be responsive to the community?

- Identify similar and/or current issues that represent differing viewpoints, goals and methods at local, state, and Federal levels and apply the analysis outlined or shown in the previous case study.

- Rate or judge the degree to which the resultant legislation, decision or policy reflects the aims or goals of a particular group or groups and the effectiveness of the methods employed by those groups or citizens.

## Activity 2

- Compare the actions taken by a citizen in the news story on page 125 with the actions of the three letter writers on page 124.
  - Which actions are part of the formal governmental process? What are the characteristics of formal process; of informal process? (Have students look at the State Constitution, in a copy of the Legislative Manual, to discover the constitutional provision for the courts. Note that reference is made in the first paragraph of the news article to a law.)
  - In the letters references are made to rewards or punishments for school board actions; identify these references. Are there any similar rewards or punishments which could come out of Mrs. Kamlet's actions? How would hers compare in effectiveness with that of the letter writers?

Note: The specific penalties meted out by a court as a result of a lawsuit are being compared with the wishes of the voting public.

LETTERS TO A LOCAL SCHOOL BOARD PRESIDENT

Dear Sir:

We have just received a copy of the proposed school budget for the coming year. If it passes our taxes will be raised by $25 per $1,000 a year! We work hard for our money and everything - our food, fuel, clothing bills are sky-rocketing. Its about time for someone to realize that you can only spend what you have; not more. We have been paying for our children's education and what have we gotten? Students who can't read or write a decent English sentence let alone add/subtract/multiply or divide without beads, rods or a calculator. We have written letters, attended meetings, served as volunteers on committees, only to be ignored and given feeble answers. We have even paid for a local radio broadcast of our views. At the next open board meeting we plan to demonstrate and expect answers. I'm sure you realize that along with the budget, your position is up for a re-election. If there is no response to this letter, we intend to run a member of our organization against you. Perhaps then we will have our views represented!

Respectfully yours,

Ms. Florence Herbert
President of Property Association

Dear Sir:

As president of the Concerned Citizens for Better Education (CCBE), we feel that the current proposed budget will be a set-back to the progress this district has made in the last 5 years. Cutting such programs as extra (after school) curricular activities, eliminating 5 teaching positions, increasing kindergarten class sizes to 28 are just a few which we feel need to be restored and/or reviewed to insure the quality of education we are all striving to establish. Rumors are flying in our neighborhood about how these cuts were made. On the committees that we served, we were confident that our ideas were being accepted. Our newsletter to the community informing them of the sacrifices needed, and the reasons for the increase appeared to be successful. We have in the past supported your re-election as president. You have given new and exciting direction to our school system. However, if the budget remains as is, we will be forced to withdraw our support and run a candidate committed to progressive and more innovating policies.

Sincerely,

Mrs. Joyce Fuller
President of CCBE

Dear Sir:

With regard to proposed new budget and $25 per $1,000 property tax increase, I'd like you to know how well it reflects both the needs of the community and its ability to pay for those needs. As a member who served on the community advisory board, I realize just how difficult it was to decide which programs had to be cut without affecting essential ones. In our discussions we had to understand the burden additional taxes would place on those with fixed incomes or senior citizens and those whose salaries are being eaten up by higher prices. Despite critical rumors, and letters being distributed demanding new and expensive programs, you have chosen a fair and wise course of action. You deserve re-election for your efforts and I, for one will vote for you.

Sincerely,

Mr. Lawrence Burns

Newsday, Aug. 11, 1977—Mineola—A Plainedge woman has filed the first lawsuit in Nassau County challenging a school board under the state's new open meetings law. Her attorney, a Hofstra law professor, said her petition could become a "landmark case" because it is the most extensive challenge yet of a school board's procedures under the law, which took effect in January.

Esther Kamlet of North Massapequa, who has two children in a Plainedge school, charged that several times she has been denied access to the board's regularly scheduled "planning sessions," at which, she alleges, the board discusses matters that should be debated in public. Her attorney in the class action suit, Alan N. Resnick, called the formal vote that is later taken in public on these matters a "sham."

Minutes of the closed meetings filed with the court papers show that the board discussed issues, such as school reorganization and assignment of a guidance counselor, that apparently are outside the limitations that the law places on "executive sessions," which may be closed in certain circumstances... .

Robert Freeman, executive director of the State Committee on Access to Public Records, already has ruled, in response to letters from Mrs. Kamlet, that the board's "planning sessions" should be open to the public.

Board member James H. Edelmann yesterday defended the board's practice, saying that such matters as reorganizing school classes, closing a school or creating new teaching positions fall into gray areas that the law does not clearly define. But board member Arthur C. Lerner said that he and two others on the seven-member board feel that many of the items do not fall into the confidential personnel matters defined by the law. "I think some of our meetings have been in violation of the law," the board member said.

State Supreme Court Justice John Burke in Nassau County signed an order Tuesday directing the board to admit Mrs. Kamlet and others to their closed meetings pending a hearing next Wednesday.

Freeman noted in his letter to the Plainedge board that State Supreme Court Justice Thomas M. Stark ruled in Suffolk in March on a case brought against the Deer Park school board that a board first must vote at a public session to go into executive session and must state its reasons for doing so.

Mrs. Kamlet, a former teacher, said she brought the suit out of "sheer frustration," after being refused entrance to private meetings three times. She said she became particularly concerned after the board decided, in private sessions, to close the Southedge School and to reorganize the grades that would be in other schools, then took a formal vote at a May 5 public meeting without discussion and refused to discuss the decision until a May 19 meeting.

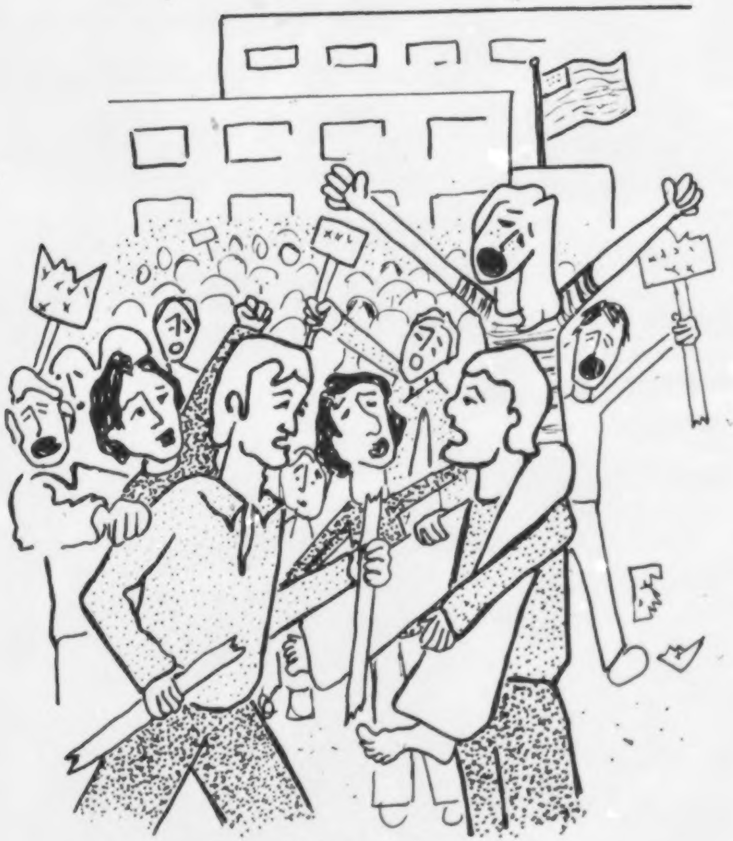
Macielak compared Mrs. Kamlet's action to one brought against the Nassau County Board of Supervisors by Richard Kessel in March, which Kessel lost. In that case, Macielak said, Kessel could not prove that the supervisors were convening formally when they got together before their regular meetings to "have Danish and coffee and kick around topics, but take no formal action."

But the Plainedge board sends out formal notice to board members, has a printed agenda and has minutes taken, which are available later at the public library. With these actions, Macielak said, "I think they're boxing themselves into being a formal meeting."

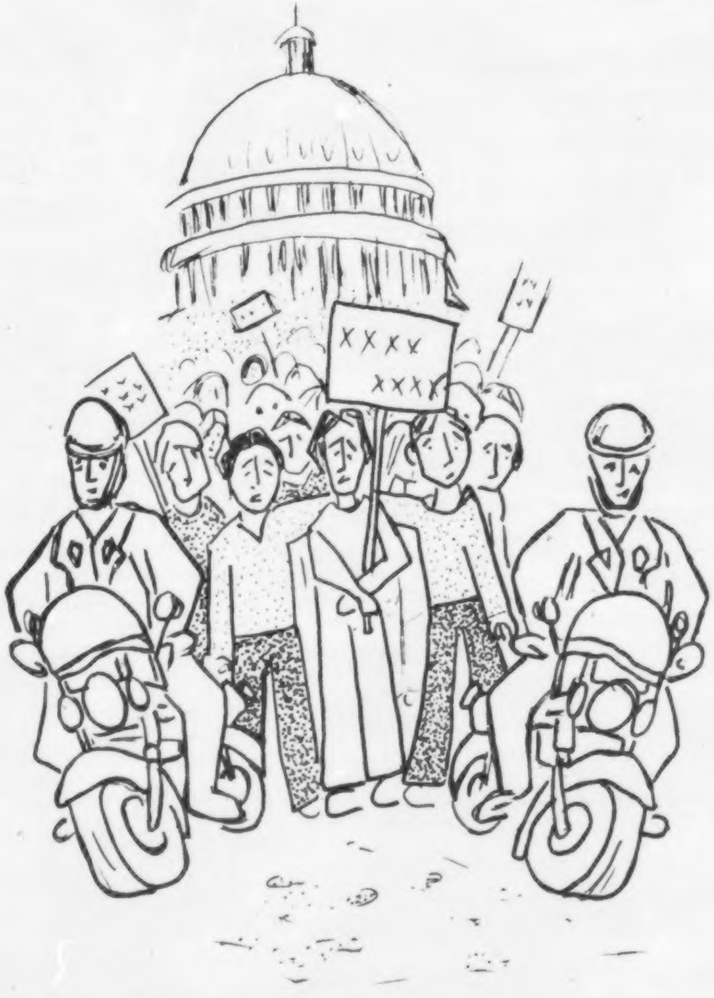
The minutes of the closed meeting of May 17 say that "board members generally agreed" to assignment of a guidance counselor to grades five and six for the next school year. Resnick said: "Generally agreed" means they took a vote. But they were not properly convened. The whole purpose of the law is to show the public how these public bodies deliberate and discuss things. This makes a sham of the statute.

## Activity 3

- Have student groups select one of the drawings on pages 127-129. The group may analyze and interpret that picture as follows:
  - identify the participants, the setting, the action
  - identify the interrelationships of these three (How does the setting affect the action of the participant?)
  - analyze and discuss the goals and methods for reaching them that are depicted in the picture
- Suggest a new and different, imagined or actual situation, in which the methods and goals discussed are illustrated.
- Identify the degree to which the action depicted is personally accepted or rejected as an effective means of change in a democratic society (value judgment).
- Student groups may change pictures with other groups and have the students repeat the same procedure of analysis and interpretation.
- In a total class setting, have the students compare all four pictures with one another and identify what all pictures have in common.
- Have the students bring to class additional pictures from newspapers and magazines, or photographs taken by students which depict the functional processes by which the people in a democratic society can effect changes.

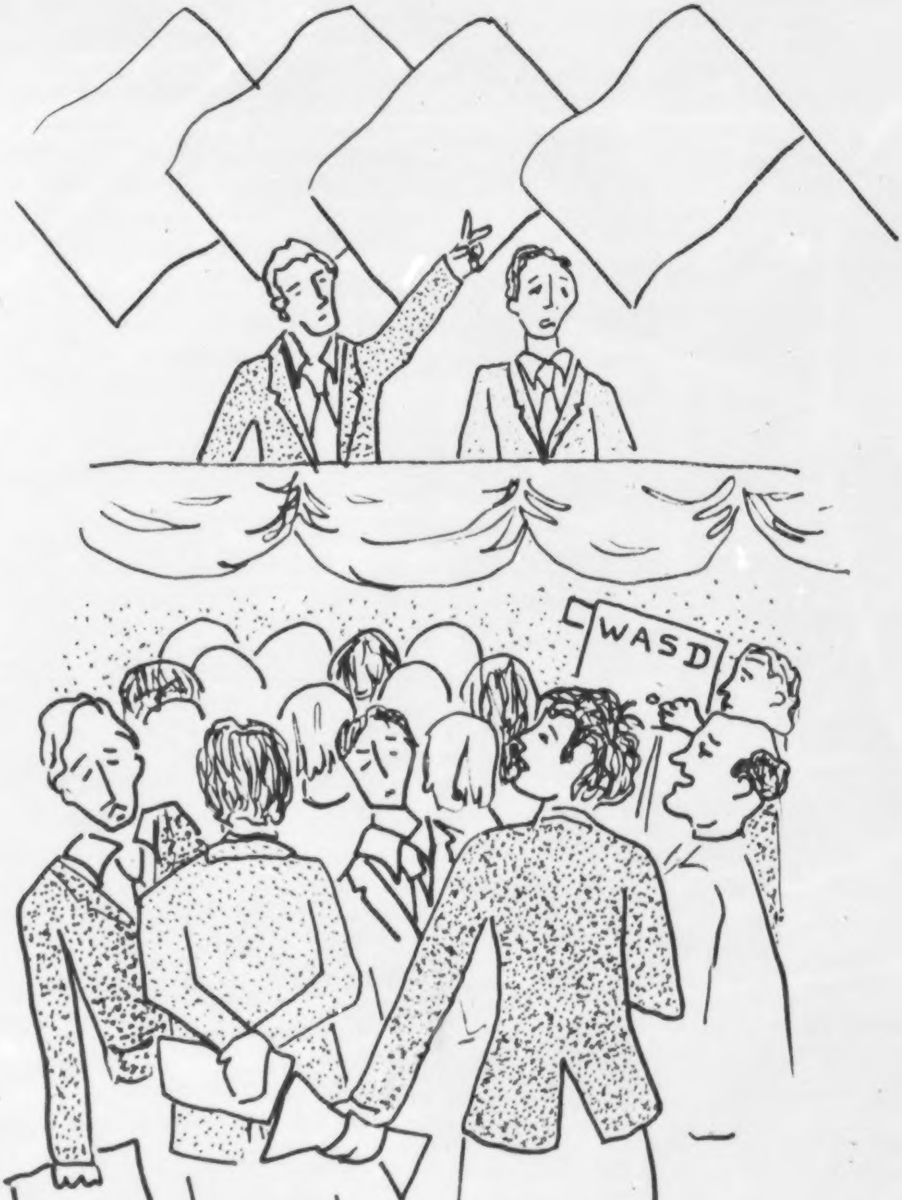


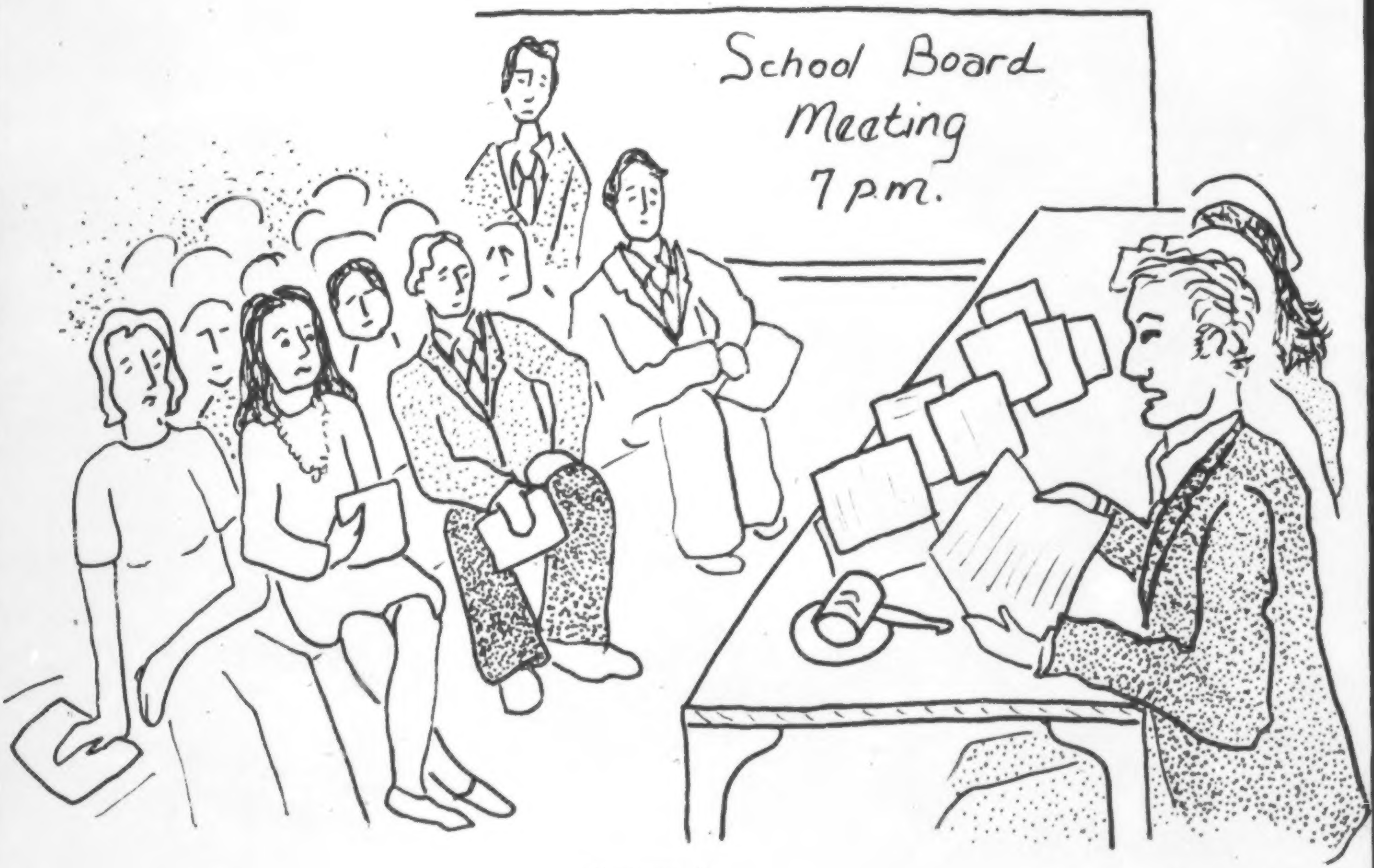
Picture 1



Picture 2

Picture 3





Picture 4

## Activity 4

Below are references to four cases which have been described in other State Education Department publications. Two are also available in several commercially published student references as well.

- Have groups of students research each of the cases, looking for answers to the following questions:
  - How could the participants have secured justice for themselves or their fellow citizens without resorting to civil disobedience?
  - What are the risks which each participant faced?
  - Why does the law have to be so written as to impose some risks upon the person who disobeys it for the sake of a principle.
  - Who is ultimately responsible for the decision that the goal is of such importance to justify breaking the law? (civil disobedience)

### The Cases

1851 The citizens of Syracuse rescue Jerry, a fugitive slave, from
Case 1 a federal marshal who was enforcing the Fugitive Slave Law.
Note: See United States History, The Black Perspective, pp. 170-186.

November 5, 1872 Susan B. Anthony attempts to vote and is arrested for violating a federal statute.
Note: exercepts of the trial are in the folder, "Liberty," in Moving On: History Resource Packet.

1955 Mrs. Rose Parks refused to move to the rear of the bus in
Case 2 Montgomery, Alabama.

Martin Luther King is jailed for leading a demonstration in Georgia.

People from all over the United States took part in a campaign to register black voters.
Note: these events are documented in some American history texts.
See also: "Growing Up in America," Part 2, pp. 84-86.
Materials for Using American Issues Forum in the American History Classroom

1965 John Tinker, aged 15, and Mary Beth Tinker, aged 13 wore black armbands to protest the war in Vietnam.
Case 3 Note: See Teaching About Basic Legal Concepts in the Junior High School, pp. 143-144.
This is also included in some student texts on the law.

## Knowledge Objective 4

*to identify and illustrate the ways by which the individual can use the political system to satisfy his/her legitimate needs.*

### Activity 1

*"Someone has said, almost cynically, that a party's first duty is to get its candidates elected. To the end that it fails in that it fails to put itself in a position where it can achieve its goals."*[1]

- Ask students to clip news articles or to take notes on radio/TV news accounts which concern candidates for office and their relationship to a political party.
- Using the articles on page 133 or some from the collection assembled by students, have student committees list important factors which enter into a party's choice of candidate.
- Record the factors on chalkboard or overhead projector and ask each student to place the three which she/he considers most important in rank order from 1, as most important, to 3. Prepare a master rank order list for the class, and save it for a later activity.
- Using news stories on page 133, have students identify services which the party provides in order to help the candidate be elected.

Related Understandings for these activities:

Grade 7: POLITICAL PARTIES ARE ORGANIZATIONS FORMED BY THE PEOPLE FOR THE SPECIFIC PURPOSE OF GETTING THE BEST POSSIBLE RESPONSIBLE GOVERNMENT.

THE POLITICAL PARTY, LIKE THE GOVERNMENT, HAS A WELL DEFINED STRUCTURE AND DEFINITE RULES UNDER WHICH IT OPERATES.

SINCE A PROGRAM CAN BE PUT INTO EFFECT ONLY IF A PARTY WINS AN ELECTION AND IS THUS IN A POSITION OF POWER, POLITICAL PARTIES HAVE DEVELOPED CERTAIN COMMONLY ACCEPTED METHODS TO ACHIEVE THE PURPOSE OF GETTING ITS CANDIDATES INTO OFFICE.

THE CITIZEN'S WAY OF GETTING THE GOVERNMENT TO RESPOND TO HIS (HER) WISHES IS BY JOINING WITH OTHER CITIZENS AND BECOMING ACTIVE AND VOCAL MEMBERS OF A POLITICAL PARTY.

Understandings already introduced at lower grades:

Grade 2: THERE ARE A NUMBER OF ORGANIZATIONS THAT PERFORM USEFUL SERVICES FOR COMMUNITIES.

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[1] Beetle, D.H. The Citizen and Politics, Albany, The State Education Dept., 1966, p. 27.

**Activity 2**

- Student committees may consider one of the following cases in which political party decisions are needed: The committee should assume the role of a party advisory committee and decide what action they would advise the party leadership (or the person or government agency) to take.

  The Cases:

  - John B. wants to be a lifeguard at a municipal pool. He is an American Red Cross Senior Lifeguard but he barely squeezed by. Other applicants are more promising. John has been cleared by his ward committeeman and his city chairman. He is one of a large family. His father and a couple of brothers have helped out the party at times. If the party, which controls the Parks Commission, passes up John, it may lose some good workers, but the municipality will get a better lifeguard.
  - Robert J. wants to run for county clerk. He is a loyal party member and also a business administration graduate. He'd probably do a fine job. The county, though, has a lot of Polish Americans (it could be any group). That, Robert J. isn't. Joseph K. is; he, too wants to run. He has no special training in management, but the party leaders think he could get a lot of votes, and the ticket needs balancing.
  - A Town Board has been buying a lot of supplies locally. The supplier is a loyal party member who contributes heavily at campaign time. The board discovers, though, that by making the same purchases elsewhere under the State contract it can save the town considerable money.
  - A city engineer has been giving a lot of work out to consulting firms. He has figured out that it would be economical if he built up a merit civil service staff of his own and did more of the city work. This would involve merit examinations and there wouldn't be much opportunity for party patronage. Moreover, the consulting firms can always be counted on for big gifts at campaign time.

- Have the class as a whole react to the committee decisions; record the majority/minority vote on each decision, and save for a later activity.

## *MONDALE STUMPS FOR CAREY COFFERS*

*By Judy Shepard*

*It will be anticlimax when Governor Carey finally announces for re-election, after a pre-campaign fund-raiser featuring Vice President Walter Mondale raised more than $200,000 Sunday night in Albany.*

*Democratic well-wishers of the governor shelled out $150 a plate for the dinner held at the "Egg" convention center at the Empire State Plaza. Slightly more than 1,400 attended the banquet sponsored by the Friends of Governor Carey Committee, which sent out about 7,000 invitations. ...*

*...Meeting briefly with the press, Carey and Lt. Gov. Mary Anne Krupsak, Mondale called Carey "an outstanding governor, and old friend and an outstanding man," pledged continuing Carter Administration support for efforts to shore up New York City finances, and sped off by motorcade to a reception at the convention center. ...*

*The governor restated what is the theme of his administration, that "we have turned the ship around" from the former administration's handling, and cited the support of the Democratic administration in Washington as a major factor in that turnaround.*

*Mondale...said the governor deserved re-election for his handling of the New York City financial crisis alone, but then went on to cite numerous other instances ... including a drop in unemployment, new industry and jobs and an attack of Medicaid and Medicare fraud. ...*

*Following his last urging that Carey's re-election campaign get strong party support, and the ritual playing of "Happy days are here again," it was back on the road for the Vice President.*

(Albany Times Union. Monday, May 22, 1978.)

## *ANDERSON DECIDES AGAINST RACE FOR GOVERNOR*

*By Vic Ostrowidzki*
*Political Affairs Editor*

*Senate Majority Leader Warren M. Anderson announced Wednesday he will not seek the Republican gubernatorial nomination and will instead run for re-election to the Senate and then another two-year term as the Republican leader of that house.*

*The Binghamton Republican legislator said his decision "was not easily reached" because he wanted "very much" to be the party's nominee and was dictated by his inability to raise sufficient funds for a "successful primary" challenge against Perry B. Duryea. ...*

*The 14-term Binghamton senator told a crowded news conference at the Capital he expects Duryea to be the Republican designee and nominee but withheld his endorsement of the Assembly minority leader until the convention selects its ticket.*

*"I will enthusiastically support the party's choice when it is made," Anderson said.*

*The majority leader said he had raised slightly more than $300,000, which he intends to return to the contributors, and that had he been able to come up with another $200,000 he would have run and won both the Republican nomination and the governorship. ...*

*Duryea said he would welcome and "be deeply grateful for Sen. Anderson's support of my candidacy for governor."*

*"I know that his whole-hearted support would add significantly and effectively to the party unity that is so essential to across-the-board Republican victories in November," he added.*

(Albany Times Union. Thursday, May 25, 1978.)

## Activity 3

- Have students select 10 of the jobs in the list below and interview 5 adults in the community concerning how these people should be selected. Ask whether a political party should be involved in making the selection.

- Compare the results of the interviews with the information from the publication, The Citizen and Politics reprinted on page 135.

*38. Discuss the element of party politics likely to be found in filling the following jobs:*

*(a) Town snowplow operator*
*(b) School principal*
*(c) State University trustee*
*(d) Health officer*
*(e) Justice of the Peace*
*(f) Supreme Court Justice (State)*
*(g) State hospital electrician*
*(h) State hospital psychiatrist*
*(i) City Hall stenographer*
*(j) Police Commissioner*
*(k) Police sergeant*
*(l) Deputy sheriff*

(Repeat "the brain activity" on page 18 for some of these individuals.)

- Discuss what effect a system in which all jobs in a government were awarded as party patronage would have upon how smoothly the government ran after an election. This might be illustrated by having students roleplay a situation in which someone goes in to have her/his license renewed, the first day that all the new employees are on the job. How would a civil service system help in this situation?

- Why would a political party wish to avoid having all jobs filled with incompetent people just because they were loyal party workers?

## Activity 4

- Using data accumulated in previous activities, students may prepare a list of questions for representatives of both major parties. Invite these people to attend the class, sending them the questions in advance. Ask both representatives to help students learn the importance of political parties in making government work in a democracy.

- Contact your county Board of Elections and discuss the kinds of information available from that agency. A student interview team might plan with agency personnel a voter registration program in the district's senior high schools. If it can be arranged with the Board of Elections, student observation teams can be assigned as "watchers of poll watchers."

## Comments Concerning Appointments to Local and State Government Posts

(a) *Town snowplow operator. There's probably some political patronage here. However, a town highway superintendent may stand or fall on how well he plows the roads. He might welcome a good employee regardless of party.*

(b) *School principal. School boards, with few exceptions, are non-partisan. Political interference here is unlikely.*

(c) *State University trustee. A governor would undoubtedly want an able person but he would usually select someone from his own party. The post is to a degree honorary and there are hundreds of other similar posts at the State level that fall in the same category.*

(d) *Health officer. Politics might be involved here but often a community is lucky to find a doctor to take the job.*

(e) *Justice of the Peace. This is a town office, under a party label.*

*(f) *Supreme Court Justice. As a practical matter, judgeships are just about the best patronage plums parties have to offer. While election at the polls is required, nomination through party-controlled judical conventions is often the decisive factor and the election little more than a formality. Especially is this true when both parties agree to nominate the same candidates and sometimes, in so doing, allot judgeships on a fixed ratio. There is criticism of the system but it continues. Acceptable alternative plans are not easy to devise.*

(g) *State hospital electrician. Such appointments might or might not be cleared with the party. It would depend somewhat on the law of supply and demand; somewhat on the operation of the Mental Hygiene Department or a given hospital at a particular time. In any case, he would be required under the civil service law to show that he had competency in the trade.*

(h) *State hospital psychiatrist. For years there have been so many vacancies in this area that it's hard to believe an appointment would hinge on party affiliation.*

(i) *City Hall stenographer. The job would presumably be filled under merit civil service. A person who places "among the top three" in the examination, though, might get some advantage by belonging to "the right party."*

(j) *Police Commissioner. This is likely to be a policy-level job filled only with party approval.*

(k) *Police sergeant. Promotional appointments in municipal police departments are invariably covered by merit civil service. Here again the party has the choice of the top three.*

(l) *Deputy sheriff. For the most part this is a patronage job. But there can be exceptions. In New York City, by petition and popular vote, the sheriff and his staff, beginning in 1941, were put under competitive civil service.*

*State Court Reform may make changes here.

(The Citizen and Politics, op. cit., pp. 51-52.)

## F DECISIONMAKING: SELECTION AMONG ALTERNATIVES

### Operational Definition

Decisionmaking is a process by which people either individually or collectively attempt to choose among alternatives, to resolve conflicts among competing interests seeking to determine or influence policies, and to balance and arrive at a consensus that will satisfy and insure the greatest good for the most in a democratic society. Essential to the process is access to reliable information, participation in the formulating stages and accountability of the decisionmaker to his/her constituents.

### Knowledge Objectives

1. *to identify the positions of authority to whom the responsibility is delegated to carry out the will of the people.*

2. *to identify, explain, and illustrate the diversity of interests and needs upon which our representatives must base their decisions.*

3. *to identify and interpret the functional processes by which our governmental representatives make and implement their decisions.*

4. *to recognize and explain the importance of providing for sufficient and reliable information for both the decisionmakers and the individual citizen.*

### Skill Objectives

- *to recognize in reading passages and in graphics situations which require a decision and the people who will be concerned with the decision.*

- *to identify the value positions of the various people making and/or affected by the decision and interpret how the value positions will affect the decision.*

- *to evaluate carefully communications related to civic matters and to form opinions independently.*

- *to weigh alternatives and consequences carefully before a decision is made.*

- *to demonstrate willingness to change an opinion in light of rational considerations.*

- *to analyze media accounts and identify alternative viewpoints.*

## Activities to Develop the Knowledge Objectives

### Knowledge Objective 1

*to identify the positions of authority to whom the responsibility is delegated, to carrying out the will of the people.*

### Activity 1

- After some brief discussion to make sure that each student understands the meaning of "making a decision," "having authority to make a decision," and "source of authority," ("who, or what says so?") distribute pages from the newspaper. Ask the students to circle each news story in which a decision is made, and to try to identify the decision-maker.

- In class discussion, review a variety of decisionmaking stories, identifying decision-makers and source of the decisionmaking authority, where possible. Note that acceptance of the decisionmaker's authority by those affected by the decision may indicate whether he/she really has that authority.

Note: Remember, sports pages have decisionmaking stories. Some students may more readily identify the source of the authority for decisionmaking in these stories than in political accounts.

- Take a mind-walk to identify decisionmaking situations, the decisionmakers and the source of their authority. Tell a story about an imaginary day in the life of Ted (Tess) Teacher. Have students record each instance of decisionmaking, the maker, and his/her authority to do so.

Related Understandings for these activities:

Grade 7: THE ORGANIZATION OF THE NEW YORK STATE GOVERNMENT AS WELL AS THE UNITED STATES GOVERNMENT IS DESCRIBED IN A WRITTEN CONSTITUTION.

THE NEW YORK STATE GOVERNMENT HAS TAKEN CARE OF THE ADMINISTRATION OF THE DIFFERING NEEDS OF ITS PEOPLE IN DIFFERING AREAS BY PROVIDING FOR LOCAL GOVERNMENTS.

THE CREATION OF CITIES IN NEW YORK STATE IS A POWER GRANTED TO THE STATE LEGISLATURE WITH CONSTITUTIONAL RESTRICTIONS.

Grade 8: THE FRAMEWORK OF GOVERNMENT UNDER THE CONSTITUTION IS BASED UPON IMPORTANT POLITICAL PRINCIPLES.

Understandings already introduced at lower grades:

Grade 1: THERE ARE CERTAIN RULES AND LAWS WHICH MUST BE OBSERVED FOR THE COMMON GOOD.

Grade 2: IN A DEMOCRACY, GOVERNMENT OFFICIALS ARE ELECTED OR APPOINTED BY OTHER ELECTED OFFICIALS.

Grade 5: OUR GOVERNMENT HAS THREE SEPARATE BRANCHES TO PERFORM THE THREE MAJOR TASKS OF ANY GOVERNMENT.

**Activity 2**

- Through class discussion, have students identify the positions and level of authority (speakers) represented by the statements found in the second column of the chart on page 139, and identify the sources of that authority.

- Divide the class into two sections.

  - Have one section of the class, using the same chart format, list identical and/or new "Positions and Level of Authority (speakers)" and "Sources of Authority" but leave the "Statement" column blank.

  - Have the other section of the class, using the same chart format, list similar and/or new "Statements" and "Sources of Authority" but leave the "Positions and Level of Authority" (speakers) column blank.

  - Have the class sections exchange their charts and complete the blank in each column.

- As an individual assignment, students may identify by name the current people in the "Positions and Levels of Authority" used in class.

## Knowledge Objective 2

*to identify, explain, and illustrate the diversity of interests and needs upon which our representatives must base their decisions.*

**Activity 1**

- Review the "people" exercise on pp. 15-16. If students have difficulty in recalling the purposes of this activity, make a diagram for "A City Student" and one for "A Country Student." Now label in another color the areas that would be the same because of television.

- In small groups the students may list all the interests and special needs of the students in the school which homeroom representatives and/or members of the Student Council should keep in mind, in making a decision.

Related Understandings for these activities:

Grade 7: SUCCESSIVE NEW YORK STATE CONSTITUTIONS HAVE REFLECTED THE CHANGING NEEDS AND THE DESIRES OF THE PEOPLE OF THE STATE.

Understandings already introduced at lower grades:

Grade 1: VILLAGE, CITY AND SUBURBAN NEIGHBORHOODS PROVIDE NEEDED SERVICES FOR FAMILIES.

Grade 2: THE PEOPLE WHO LIVE IN OUR COMMUNITIES REPRESENT MANY AND VARIED RACIAL AND ETHNIC GROUPS.

THERE ARE A NUMBER OF ORGANIZATIONS THAT PERFORM USEFUL SERVICES FOR COMMUNITIES.

| Position & Level of Authority (speaker) | Statement | Sources of Authority |
|---|---|---|
| 1. | "I as chief executive, appoint Ms. Weber as Commissioner of the Motor Vehicle Department." | |
| 2. | "The majority of this court finds that executive privilege does not apply in this case." | |
| 3. | "You are hereby placed under arrest for the armed robbery of Harry's Auto Supply Store. Let me advise you of your rights..." | |
| 4. | "I hereby introduce tax bill H.R. 873 to increase the funding of revenue sharing." | |
| 5. | "I, as commander in chief, order that the National Guard be sent to aid flood victims in the Chemung Valley area." | |
| 6. | "I, as a council member, disapprove the rezoning of the property, west of Harrison and Douglas Streets for a supermarket." | |
| 7. | "I as chief executive, hereby submit the budget for the city's forthcoming fiscal year." | |
| 8. | "I, as a legislator, cast my ballot in favor of the appointment of Anna Peralta to the Board of Regents." | |
| 9. | "You are herby fined $25 for going 70 miles per hour in a 55 mile per hour zone on Interstate 81." | |
| 10. | "I hereby vote in favor of the proposal to add two new social studies teachers to the faculty of Roosevelt Junior High School." | |

- Compare these lists with a list which might be made by the governing group for a sports group such as Babe Ruth baseball.

Grade 4: THE AMERICAN PEOPLE ARE OF VARIED NATIONAL, CULTURAL, RACIAL AND RELIGIOUS BACKGROUNDS.

- Have two students with diverse views on a topic such as whether the school should have a "dress code" try to sell their views to a student government member.

**Activity 2**

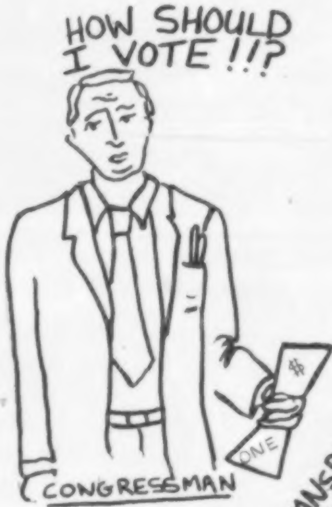
- Have the class identify the pressure groups depicted in the cartoon (p. 141) and analyze and interpret how the drawings and captions serve to to so. (Note the degree to which the artist used stereotyped concepts.)
- Have the students discuss and analyze the conflict or problem faced by the elected representative; why does she/he have to face this in a democratic society?
- Have the class select one current issue either local, state or federal level and specifically identify what groups are supporting or opposing such legislation and why.
- The class may discuss the probable impact of conflicting interests on the representatives and why he/she should be responsible with respect to the particular issue selected.

PEOPLE ARE NOT MACHINES. WE NEED ART, MUSIC AND BEAUTY.

HIGHER PRICES FOR MY CROPS!

MY COMPANY CAN DO THE BEST AND CHEAPEST JOB!!

MAYOR
THE CITY IS A MESS! WE NEED $ $!


HOW SHOULD I VOTE!!?
$
ONE
CONGRESSMAN

GIVE MONEY TO FIND A CURE.

MONEY FOR OLYMPIC TRAINING. WE WANT TO WIN!
10

MASS TRANSPORTATION! PREVENT POLLUTION!!
BAIT

NEW PROGRAMS, NEW BOOKS AND MATERIALS.
$x = y\sqrt{z}$

I WANT BETTER HOUSING!

CREATE JOBS NOW!

## Knowledge Objective 3

*to identify and interpret the functional processes by which our governmental representatives make and implement their decisions.*

### Activity 1

- The following situation is to be staged in the classroom to introduce the main features of the decisionmaking process to students. Several comparable situations may be devised by the teacher and may substitute for this one. Bring to the classroom several apples which vary in quality but among which is one of the superior qualities, e.g., size, ripeness, color, etc. Display the apples in front of the students and tell one student that he/she is to make a decision that has to do with the apples. Write the word decision on the chalkboard and ask the class what the word means. Then tell the one student that he/she can have one of the apples. That student or the class should be asked to state what the problem is which now confronts the student. (Initially the problem may be whether or not to go along with this exercise. Later the problem becomes how to select the best apple from among those available.) After the apple has been selected, the student should be required to explain why one apple was chosen over the others. The student should be able to explain that an evaluation of the apples according to criteria he/she held about what makes an apple superior resulted in the choice of a particular apple (big, delicious looking, no worm holes, etc.) In reviewing the situation the teacher might summarize on the board key aspects of

Related Understandings for these activities:

Grade 7: SINCE OUR GOVERNMENT FUNCTIONS THROUGH THE OPERATION OF THE TWO-PARTY SYSTEM IT IS BETTER TO PRESENT REASONABLE PROGRAMS AND GOOD CANDIDATES SO THAT EITHER PARTY HAS A CHANCE AT EACH ELECTION TO GET CONTROL OF THE GOVERNMENT.

GOVERNMENT IS AN ORGANIZATION FORMED TO PERFORM SERVICES FOR PEOPLE FOR WHICH THEY HAVE A COMMON NEED.

Grade 8: THE FRAMEWORK OF GOVERNMENT UNDER THE CONSTITUTION IS BASED UPON IMPORTANT POLITICAL PRINCIPLES.

THE BODY OF PROCEDURES WHICH EVOLVED TO MAKE THE MACHINERY OF THE FEDERAL GOVERNMENT OPERATE MORE SMOOTHLY BECAME KNOWN AS OUR "UNWRITTEN CONSTITUTION."

THE LANGUAGE OF THE CONSTITUTION HAS MADE POSSIBLE CHANGE IN THE ROLE OF OUR FEDERAL GOVERNMENT WITHOUT A CORRESPONDING CHANGE IN ITS FRAMEWORK.

Understandings already introduced at lower grades:

Grade 2: THE PEOPLE WHO LIVE IN OUR COMMUNITIES REPRESENT MANY AND VARIED SOCIAL AND ETHNIC GROUPS.

LOCAL GOVERNMENTS PROVIDE MANY NEEDED SERVICES.

Grade 5: THOUGH MOST IMPORTANT ECONOMIC DECISIONS ARE MADE BY INDIVIDUALS AND GROUPS UNDER THE decisionmaking that emerge from this exercise. For example:

"In making a decision . . .

- You should understand the situation
- You may have to make a selection from alternatives
- You have to be able to evaluate alternatives."

PRIVATE ENTERPRISE SYSTEM, GOVERNMENTS (NATIONAL, STATE, AND LOCAL) PLAY A VERY IMPORTANT ROLE IN OUR ECONOMY.

STATE AND LOCAL GOVERNMENTS... INFLUENCE ECONOMIC LIFE.

- Students should be asked to suggest other situations in their experience or daily lives when they or others had to make decisions that involved considering the consequences of the various alternatives available.

- Students may be asked to speculate how the decisionmaking process would be different in situations that are more complex.

Activity 2:

- After an initial consideration by the class of the decisionmaking process, as observed in the previous activity, the teacher can present the essentials of the model presented here. The main stages of the two cycles may be listed on the chalkboard or overhead projector accompanied by some verbal explanation. (The model is on pages 144-145.)

- Individual students or teams of students could interview school personnel, e.g., the department chairperson or principal, identify a problem involving decisionmaking facing that person, and then attempt to apply the model considered in class.

The model might also be applied to personal or family matters, e.g., replacing an aging car.

Special Note:

Previous activities have made clear that decisionmaking is at the heart of both governmental processes and participatory acts by the individual citizen. In a sense, decisionmaking is a rational way to solve problems which involve choices among alternatives.

Those decisions in government which have the greatest affect on people, the longest time perspective, and which require the greatest amount of information and thought, are often referred to as "policy." Policy decisions tend to be those which guide future decisions of a more routine nature. Policy decisions focus on problems which have certain characteristics which set them apart from other problems. Policy problems are public in nature because they are perceived as needs that are appropriate for government action;

- make a big difference in the lives of people;

(Text continued on page 146.)

# A DECISIONMAKING MODEL

Note: Although there exists a variety of models for decisionmaking—some old, some new; some simple, some exotically complex— this model (after Richard Wallen, 1930, and Edgar H. Schein, 1969), which shares some features with several other models, has wide application to individual decisionmaking, large group processes as in government, problem-solving, and policy formation.

## MODEL FOR DECISIONMAKING/POLICY FORMATION

This model consists of two cycles of activity. The first cycle takes place before any decision or action, and the second follows after the decision has been made. The complete process may be outlined as follows.

### CYCLE 1

1. Formulating the problem

In many situations this first step, defining the problem is among the most difficult. Once "symptoms" of something being wrong are perceived, it is necessary to determine as exactly as possible what the "problem" is.

2. Generating proposals for solution

It is desirable at this stage to come up with as many alternative solutions as possible, e.g., using the technique of brainstorming which includes the notion that evaluation of ideas should not be allowed during the producing of ideas.

3. Predicting the consequences of alternatives

The consequences of the various alternatives should be forecasted and evaluated conceptually to the extent that circumstances permit. Techniques include relying on experience, gathering expert opinion, surveying existing data, and conducting research.

This cycle ends with the emergence of a consensus on a proposed solution and the accompanying decision to act.

### CYCLE 2

4. Planning the course of action to be taken (action planning)

This stage is similar to the entire preceding cycle in that the problem objective is to formulate the best plan for implementing the decision. Various plans may be generated and one decided upon.

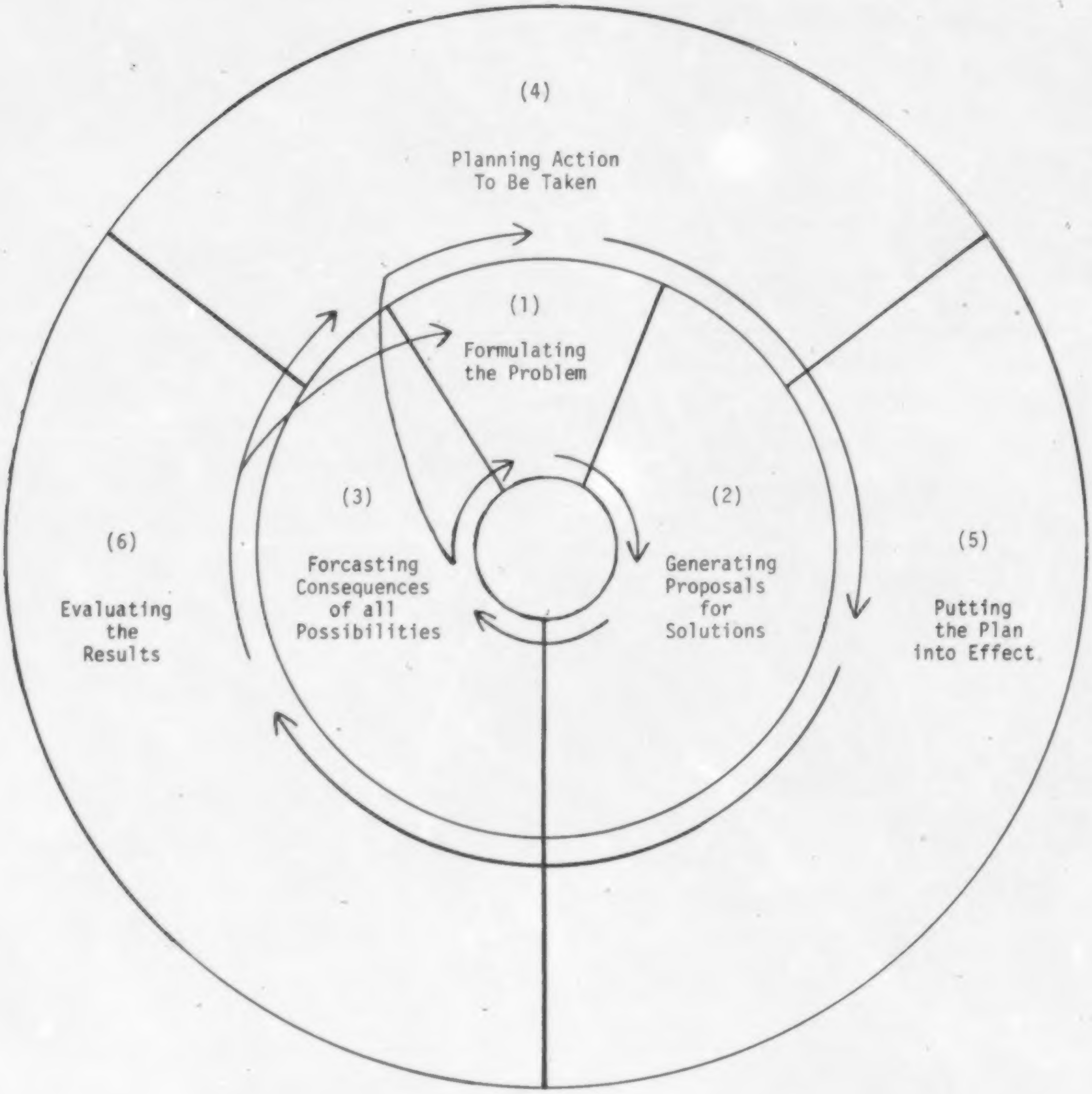
5. Implementing the plan (action steps)

This stage involves carrying out the plan devised as the solution to the initial problem.

6. Evaluating outcomes

This last stage should be anticipated with the beginning of the second cycle; it is necessary to decide what information will be needed to determine whether or not the action taken has achieved the desired results.

At any stage the whole process may be recycled back to the beginning if it appears that the problem was incorrectly defined.


(4)
Planning Action To Be Taken
(1)
Formulating the Problem
(2)
Generating Proposals for Solutions
(3)
Forcasting Consequences of all Possibilities
(5)
Putting the Plan into Effect
(6)
Evaluating the Results

- are usually very complex because economic, political, social, psychological, and other factors are involved;
- involve great uncertainty as to how to define and solve them;
- reflect the differing interests of our heterogeneous society.

## Activity 3

- Have students monitor TV or radio news for several nights, recording every story that involves decisionmaking by government officials at local, State, or federal level. Have teams of students consider one issue at each of these levels. They should apply the model, in an attempt to come up with decisions based on evaluation of alternatives. To the extent practical, the teams can also engage in an approximation of action planning, action steps, and evaluation of outcomes. One side effect of an application of this model should be an increased awareness of the need for substantial information.

- Drawing upon the information on policy given in the note above, the student teams should identify which of the issues originally identified from TV or radio sources involve policy decisions.

- Students can gather together a folder of clippings relevant to the problem. Such folders of information can be used in simulations of the actual policy decisions. (For example, numerous articles, editorials, and statements by interest groups appeared in the press during the weeks leading up to President Carter's decision to halt production of the B-1 bomber. There was widespread coverage of national defense strategy, i.e., the concept of a triad of land-based missiles, seaborne missiles, and manned bombers, as well as possible alternatives including sub-sonic cruise missiles.) In a simulation of this sort of policy problem, a team of students would role play the President, Secretary of Defense, and other key officials in making a policy decision or reconsidering a decision already made.

## Activity 4

- Have the class role play the following situation:

You are members of your local junior high school student government. A recent fund raising drive has netted clear profit of $300. Below are descriptions of 5 different projects or causes from which you must choose to spend the money.

Situation 1.

A fellow student has been injured in a local automobile accident. The daily hospital expenses or cost for his family of six have been $100 a day. The family has used up or exhausted their medical insurance money and have little or no savings left. They have asked for help from neighbors and friends.

Situation 2.

Preparations are being made for the local end of the year school dance. A very popular rock band group is in town as part of their tour. The cost for a one night appearance is $250.

Situation 3.

The 7th or 8th grade class has just completed a study unit on the operations of government. As a culminating activity they have made plans for a class trip to Washington D.C. or Albany. Despite cake sales, school funds, they still need $300 to cover transportation and/or hotel accommodations.

Situation 4.

Each year, the 7th or 8th grade class presents to the school a gift which the upcoming classes may need or like. This year the suggestion is to purchase a new tape cassette system for the media center. The cost of the system is $275.

Situation 5.

The local school newspaper is limiting its publication to only two pages because of the rising cost of paper and material. The most popular third page section on local in-school gossip and evaluations on teachers is being dropped. The cost to keep the paper as is with the purchase of more paper and materials is $300 for the year.

In discussing and analyzing their decisionmaking process the students may:

- Identify the conflict of needs presented in the five situations.
- Recognize the need for additional information before weighing the merits of each case.
- Discuss the feasibility and practicality of meeting or satisfying the needs.
- Recognize their accountability to the entire student body and the methods they might employ to assure that their final decision is based on a consensus.

- Alternative techniques for classroom use with these situations.

  - Select five students to debate or plead cases before the class. Have the class note the degree to which each advocate advances his/her position and the argument used to either rebut or negate the merits of his opponent's presentation and have the class either list or classify these factors.

  - Have the class vote on the issues and analyze the results of their vote, i.e., What arguments seemed most persuasive and why? In what ways was a consensus arrived at in this situation. Why was it necessary to reach a consensus? How difficult was it and why?

- Have the class design a strategy or functional operational plan to implement their decision, i.e., How will the student government assure support for their choice? How will they inform the student body of their consideration of all the proposals? What methods and/or techniques can they employ to accomplish the goals of the case or cause they found to be most meritorious, i.e., who will purchase, donate, hire, handle the money and be responsible for overseeing or directing the distribution? Should they form committees for publicity and/or staff assignment? Who will be selected and by whom? How will they evaluate the success or effectiveness of their plans? To whom must they be accountable and why?

- Have the students evaluate their performance in deciding which case should be funded and the process involved in reaching their decision and plans for implementation. Can they suggest a "better way" or more equitable process to meet the needs of the majority. Analyze and discuss their suggestions and/or alternative solutions.

## Knowledge Objective 4

*to recognize and explain the importance of providing for sufficient and reliable information for both the decisionmakers and the individual citizen.*

### Activity 1

- Have the students read the following brief statements:

*The First Amendment of the Bill of Rights*

> *"Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble; and to petition the government for a redress of grievances."*

*Newspaper Columnist Jack Anderson*

> *"Our forefathers did intend that the press should be a watchdog on government. You can't be a watchdog if you permit government to determine what you can print."*

Related Understandings for these activities:

Grade 7: THE GOVERNMENT OF NEW YORK STATE CONTROLS AND SUPERVISES ITS PUBLIC EDUCATION UNDER A CENTRALIZED STRUCTURE WHICH RECEIVES ITS DIRECTION FROM THE CONSTITUTION AND LAWS OF THE STATE.

Grade 8: KNOWLEDGE OF THE CONSTITUTION OF THE UNITED STATES IS NEEDED AS A BASIC FOUNDATION FOR UNDERSTANDING THE FUNCTIONING OF THE FEDERAL GOVERNMENT.

ALL AMERICAN CITIZENS, WOMEN AS WELL AS MEN, HAVE RESPONSIBILITIES AS WELL AS RIGHTS.

Understandings already introduced at lower grades:

Kindergarten: ALL CHILDREN ATTEND SCHOOL IN OUR SOCIETY.

Grade 5: THE SYSTEM OF FREE PUBLIC EDUCATION HAS BEEN VERY IMPORTANT IN THE DEVELOPMENT OF AN AMERICAN CULTURE.

- In class discussion, raise the following questions based on the above readings:
  - What is the meaning of the First Amendment?
  - What issue is being identified in Jack Anderson's statement?
  - What does Jack Anderson mean by the phrase, "a watchdog on government"?
  - Can you cite any current examples of newspapers playing the role of "watchdog?"

## Activity 2

Note: The cartoon on page 151 and the editorial below relate to a May 1978 test of the First Amendment. Teachers and students may wish to search news accounts for a more current case.

- Using the editorial below and the cartoon on page 151, students can prepare a television script, in which a newspaper's picture files are searched by the police in an effort to locate evidence on a crime.

  Assign roles in the script and play the scene in which the police appear at the newspaper office and are confronted by the editor who asserts what he believes are his First Amendment rights. The police should identify their responsibilities which have led to this action.

- Have the students who play the crucial roles report their feelings about their stand on the issues.
- The model for decisionmaking could be applied in an imaginary scene in the police department when the "raid" was being considered.

### *A DANGER TO OUR FREEDOM*

> *"The title of this editorial refers to 'our' freedom. By this we mean not just the freedom of the press, but the freedom of every citizen of this nation. They are inextricably entwined, and face their newest and most severe threat with the decision of the United States Supreme Court on Wednesday that newspapers are subject to 'no-knock' searches and seizures from their files by law enforcement officers searching for evidence.*
>
> *"You do not have to be a criminal or suspected of criminal action, the court said in effect on Wednesday, to become the object of a police search without warning. It is one of the most ominous developments for press and individual freedoms in recent history.*
>
> *"As one of the dissenting justices, John Paul Stevens, pointed out, 'Countless law-abiding citizens—doctors, lawyers,*

(Albany Times Union, June 2, 1978.)

*merchants, customers, bystanders—may have documents in their possession that relate to an ongoing criminal investigation. The consequences of subjecting this large category of persons to unannounced police searches are extremely serious.'*

*"But an even more grave consequence of Wednesday's ruling is likely to be the chilling effect on newspaper informants who want to remain anonymous.*

*"Said Justice Potter Stewart: 'It requires no blind leap of faith to understand that a person who gives information to a journalist only on condition that his identity will not be revealed will be less likely to give that information if he knows that, despite the journalist's assurance, his identity may in fact be disclosed... It seems obvious to me that a journalist's access to information, and thus the public's will be impaired.'"*

## Activity 3

- There are classic cases concerning the role of the press in informing the public. Some instances for additional reading or film/filmstrips viewing, the class might interview news media personnel concerning one or more of these, and the media's responsibilities in a democratic society.
  - The trial of John Peter Zenger
  - The trial of Billie Sol Estes
  - The suit against The New York Times concerning the Pentagon papers
  - The role of Bernstein and Woodward and The Washington Post, with regard to Watergate

## Activity 4

Note: This activity is taken from Topic III, "Certain Unalienable Rights, *Materials for Using American Issues Forum in the American History Classroom*, which also includes other useful activities and references concerning freedom of the press.

Classroom Procedures/Discussion Questions
(Use the questionnaire on page 152 for this activity.)

. Poll class — record results — discuss individual teams.
. How did you vote? Why?
. Indicate the class views will be compared with views of Courts later.
. Assignment

## Is Freedom of the Press Absolute?...How Do You Feel

1. The government should be allowed to review and prevent the actual printing and publication of materials where necessary.

   Strongly Agree    Somewhat Agree    Somewhat Disagree    Strongly Disagree

2. The press should have an absolute right to criticize the public actions of government officials even when it is not entirely sure of the truthfulness of its assertions.

   Strongly Agree    Somewhat Agree    Somewhat Disagree    Strongly Disagree

3. Government papers marked "secret" should remain so and should not be published by the news media under any circumstances.

   Strongly Agree    Somewhat Agree    Somewhat Disagree    Strongly Disagree

4. The government should require a newspaper or magazine to print the replies of government officials who have been criticized in that publication.

   Strongly Agree    Somewhat Agree    Somewhat Disagree    Strongly Disagree

5. In the course of a trial, a judge has the right to restrict news reporting despite the fact that the public has the right to know what goes on in the courtroom.

   Strongly Agree    Somewhat Agree    Somewhat Disagree    Strongly Disagree

6. Reporters should be forced to reveal the sources of their information if their testimony would help fight crime.

   Strongly Agree    Somewhat Agree    Somewhat Disagree    Strongly Disagree

7. The "freedom of the press" clause of the 1st Amendment should not cover material that is obscene or libelous.

   Strongly Agree    Somewhat Agree    Somewhat Disagree    Strongly Disagree

8. The President of the United States should not allow newspapers to print stories that he thinks are not in the public interest.

   Strongly Agree    Somewhat Agree    Somewhat Disagree    Strongly Disagree

. Assignment

Prepare a list of situations in which "free press" might well be restricted. Give justification for action.

| Situation | Reason(s) for Regulation |
|---|---|

**Activity 5**

- The American government's policy regarding the Native American has undergone many changes. Below is a list of laws that have been passed regarding the Native American. Divide the class into groups and have them research each of the laws, to answer the following questions:

  - What was the intent of the law? Did it achieve what the lawmakers and citizens were led to believe?
  - What groups most influenced the passing of the law?
  - Were the views of the Native Americans considered in the decision-making process?
  - Give examples of specific cases where the policy helped or hindered the Native American.
    The Laws:

    --Dawes Act, 1887 - (General Allotment Act)
    --Citizenship Act - 1924
    --Reorganization Act - (Wheeler-Howard Act - 1934)
    --Resolution 108 - (Termination Policy - 1953)

  - Using the information gathered, have each group prepare a debate for the rest of the class pro and con the particular law they researched.
  - Have the class tell what additional information they would want to know before deciding about the policy.
  - Have members of the class find out specific information regarding New York State's policy toward its Native Americans, for example, The keeping of Wampum Belts and other Indian artifacts; the Regents Position Paper concerning Native American Education.